FEDERAL REGISTER

VOLUME 13 NUMBER 214

Washington, Tuesday, November 2, 1948

TITLE 3—THE PRESIDENT

PROCLAMATION 2820

ARMISTICE DAY, 1948

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS November 11, 1948, marks the thirtieth anniversary of the signing of the Armistice which terminated hostilities between lawless aggressors on one side and defenders of freedom and peace on the other; and

WHEREAS less than a generation after the first World War the peace of the earth was shattered by the same aggressive forces, so that peace-loving men were once again compelled to defend themselves and their ideals by force of arms; and

WHEREAS it is fitting that on this anniversary we rededicate ourselves as unflagging and perpetual advocates of those principles for which we fought; and

WHEREAS the Congress passed a concurrent resolution on June 4, 1926 (44 Stat. 1982) calling for the observance of November 11 with appropriate ceremonies, in schools or churches, or other suitable places, and later provided in an act approved May 13, 1938 (52 Stat. 351) that this date should be celebrated and known as Armistice Day:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby call upon the people of the United States to observe November 11, 1948, as Armistice Day by renewing their devotion to the cause of enduring peace; and I direct that the flag of the United States be displayed on all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 28th day of October in the year of our Lord nineteen hundred and [SEAL] forty-eight, and of the Independence of the United States of America the one hundred and seventy-third.

HARRY S. TRUMAN

By the President:

ROBERT A. LOVETT,
Acting Secretary of State.

[F. R. Doc. 48-9648; Filed, Oct. 29, 1948; 4:34 p. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

LISTS OF POSITIONS EXCEPTED

Under authority of § 6.1 (a) and (d) of Executive Order No. 9830, and with the concurrence of the agencies concerned, § 6.4 (a) is amended as set out below. These amendments shall be effective upon publication in the FEDERAL REGISTER.

1. Section 6.4 (a) (1) (iv) is amended to read as follows:

§ 6.4 *Lists of positions excepted from the competitive service*—(a) *Schedule A.* * * *

(1) *Entire Executive Civil Service.* * * *

(iv) *(a)* NC/PD. Attorneys.

(b) NC/PD. Law clerk-trainee positions. Appointments under this subdivision shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed nine months pending admission to the bar. No person shall be given more than one appointment under this subdivision.

2. Section 6.4 (a) (4) (xiv) is revoked. The exception formerly appearing under this subdivision has been transferred to § 6.4 (a) (46) (iv) as indicated below.

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EXECUTIVE AGENCIES

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Division of the Federal Register, the National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U. S. C., ch. 8B), under regulations prescribed by the Administrative Committee, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

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CODIFICATION GUIDE—Con.

3. Section 6.4 (a) (8) (xiv) is amended and subdivision (xxx) is added to § 6.4 (a) (8) as set out below.

(8) *Department of the Interior.* * * *

(xiv) NC/PD. Scientific, professional and subprofessional positions in the field of scientific research and investigation in the natural and physical sciences when filled by the appointment of graduate students or students pursuing scientific courses at accredited colleges or universities: *Provided,* That substantial contributions to the investigation are made by such colleges or universities in money, services, or materials or in the use of buildings, laboratories, equipment or facilities or otherwise. Such employment may be continued under this authority only so long as the appointee is a bona fide student at the particular college or university and receives academic credit toward a degree for the work which he is performing. The total number of positions to be filled under this provision may not exceed 100 at any time.

* * * * *

(xxx) NC/PD. Scientific and professional positions in the natural and physical sciences when filled by bona fide members of the faculty of an accredited college or university not to exceed 120 days in any one year in any individual case and the total number of appointees not to exceed 25 at any one time.

4. Section 6.4 (a) (23) (vi) is revoked. Law clerk-trainee positions in the Securities and Exchange Commission which were formerly excepted under this subdivision will, in the future, be excepted under the general provision in § 6.4 (a) (1) (iv) (*b*) set out above.

5. Section 6.4 (a) (34) (viii) is amended to read as follows:

(34) *Civil Aeronautics Board.* * * *

(viii) A director and two assistant directors of the Economic Bureau, Director of the Bureau of Safety Regulation, and Director of the Bureau of Safety Investigation.

6. Section 6.4 (a) (46) is amended by the addition of a subdivision numbered (iv) as follows:

(46) Department of the Air Force. * * *

(iv) NC/PD. Civilian deans and professors at the Army Air Forces Institute of Technology, Wright-Patterson Air Force Base, Dayton, Ohio.

(Sec. 6.1 (a) and (d), E. O. 9830, 12 F. R. 1259)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] H. B. MITCHELL,
President.

[F. R. Doc. 48-9603; Filed, Nov. 1, 1948; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter XXI—Organization, Functions and Procedure

PART 2208—OFFICE OF THE SOLICITOR

DISCONTINUANCE OF CODIFICATION

The codification of Part 2208 is hereby discontinued. Future amendments to descriptions of organization and functions will appear in the Notices section of the FEDERAL REGISTER.

[SEAL] W CARROLL HUNTER,
Solicitor.

[F. R. Doc. 48-9622; Filed, Nov. 1, 1948; 8:53 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND INVESTMENT COMPANY ACT OF 1940

MISCELLANEOUS AMENDMENTS

Acting pursuant to authority conferred upon it by the Securities Act of 1933, particularly sections 6, 7, 8, 10 and 19 (a) thereof, and the Securities Exchange Act of 1934, particularly sections 12, 13, 15 (d) and 23 (a) thereof, the Securities and Exchange Commission hereby amends Part 210 (Regulation S-X) as follows:

1. Paragraph (a) of § 210.1-01 (Rule 1-01) of Article 1 is amended by deleting the reference to Forms A-2, and C-1 (17 CFR 239.2 and 239.3) which have been rescinded by the Commission and by including therein a reference to Form S-11 (17 CFR 239.18) As amended paragraph (a) of the section reads as follows:

§ 210.1-01 *Application of this part.* * * *

(a) Registration statements under the Securities Act of 1933, filed on Form S-1, S-2, S-3, S-4, S-5, S-6, or S-11 (17 CFR 239.11, 239.12, 239.13, 239.14, 239.15, 239.16, 239.18) except as otherwise specifically provided in such forms;

2. Article 4 is amended by adding a new section designated as § 210.4-14 (Rule 4-14).[1] The new section reads as follows:

§ 210.4-14 *Special requirements as to commercial, industrial and mining companies in the promotional, exploratory or development stage subject to §§ 210.5a-01 to 210.5a-07.* The financial statements required by §§ 210.5a-01 to 210.5a-07, shall not be prepared on a consolidated basis but shall, insofar as practicable, be prepared so as to show the information for the registrant and each of its subsidiaries in parallel columns.

3. Paragraph (a) of § 210.5-01 (Rule 5-01 of Article 5) is amended by adding a new subparagraph, designated (5)[2] as follows: * * *

(5) Commercial, industrial and mining companies in the promotional, exploratory or development stage (see §§ 210.5a-01 to 210.5a-07).

4. Section 210.12-06 (Rule 12-06 of Article 12) is amended by adding a new paragraph to the instructions set forth in footnote 2 to such section[3] to read as follows:

(c) *Mining companies using §§ 210.5a-01 to 210.5a-07.* Such mining companies shall include herein only depreciable mine plant and equipment at the dollar amounts required by the instructions set forth under Caption 13, property, plant, and equipment of §§ 210.5a-01 to 210.5a-07. A mining company falling into this category shall also, to the extent practicable, observe the other instructions set forth under this section.

5. Section 210.12-07 (Rule 12-07 of Article 12) is amended by adding a new

[1] The purpose of this section is to require commercial, industrial, and mining companies in the promotional, exploratory or development stage, having subsidiaries to show the financial information for the registrant and each of its subsidiaries in parallel columns.

[2] The purpose of this amendment is to prescribe §§ 210.5a-01 to 210.5a-07 (Article 5A) as the article governing the form and content of financial statements required to be filed by commercial, industrial, and mining companies in the promotional, exploratory or development stage.

[3] The purpose of the amendment is to make uniform the information required to be shown with respect to mine property, plant, and equipment in the Statement of Assets and Unrecovered Promotional, Exploratory, and Development Costs and in this section by certain mining companies using Form 10, Form 10-K or Form 1-MD.

paragraph to the instructions set forth in footnote 1 to this section,[4] as follows:

(c) *Mining companies using §§ 210.5a–01 to 210.5a–07.* Such mining companies shall include herein only the amount of the reserve for depreciation, depletion, and amortization of mine property, plant, and equipment and unrecovered promotional, exploratory, and development costs applicable to the amounts set forth in the schedule filed pursuant to § 210.12–06 (Rule 12–06) and § 210.12–06a (Rule 12–06A). A mining company falling into this category shall also, to the extent practicable, observe the other instructions set forth under this section.

6. Regulation S–X is amended by adding a new article, designated as Article 5A (§§ 210.5a–01 to 210.5a–07)[5] as follows:

COMMERCIAL, INDUSTRIAL AND MINING COMPANIES IN THE PROMOTIONAL, EXPLORATORY OR DEVELOPMENT STAGE

§ 210.5a–01 *Application of §§ 210.5a–01 to 210.5a–07* Sections 210.5a–01 to 210.5a–07 shall be applicable to the financial statements filed as a part of:

(a) Registration statements on Form S–2, Form S–3 or Form S–11, except as otherwise specifically provided in such forms, under the Securities Act of 1933;

(b) Applications for registration and annual reports pursuant to sections 12, 13 and 15 (d) respectively of the Securities Exchange Act of 1934 filed by commercial and industrial companies in the promotional or development stage which, if registering under the Securities Act of 1933, would be required to use Form S–2.

(c) Applications for registration and annual reports pursuant to sections 12, 13 and 15 (d) respectively of the Securities Exchange Act of 1934 filed by mining companies not in the production stage[6] but engaged primarily in the exploration for or the development of mineral deposits other than oil, gas or coal, if all of the following conditions are met:

(1) The registrant has not been in production during the period of the report or the two years immediately prior thereto; except that being in production for an aggregate period of no more than eight months over the three-year period shall not affect the use of the form.

(2) Receipts from the sale of mineral products or from the operation of mineral producing properties by the registrant and its subsidiaries combined have not exceeded $500,000 in any of the most recent six fiscal years and have not aggregated more than $1,500,000 in the most recent six fiscal years.

§ 210.5a–02 *Statement of assets and unrecovered promotional, exploratory, and development costs.* The statement of assets and unrecovered promotional, exploratory, and development costs filed for persons to whom §§ 210.5a–01 to 210.5a–07 are applicable shall comply with the following provisions:

CURRENT ASSETS

1. *Cash and cash items.*

2. *Marketable securities.* Include only securities having a ready market. Securities of affiliates shall not be included here. State here the basis of determining the amount at which carried. The aggregate cost and aggregate amount on the basis of current market quotations shall be stated parenthetically or otherwise.

3. *Accounts and notes receivable.*

4. *Reserve for doubtful accounts and notes receivable.*

5. *Inventories.* State separately each major class of inventory and the basis of determining the amounts shown. Any classification that is reasonably informative may be used.

6. *Amounts due from underwriters, promoters, directors, officers, employees, and principal holders of equity securities other than affiliates.* State separately the total amount, if significant, due from each class of persons named in the caption to this paragraph. Exclude from the amounts set forth hereunder trade accounts subject to the usual trade terms.

7. *Other current assets.* (a) State separately (1) total of current amounts due from parents and subsidiaries; and (2) any other amounts in excess of five percent of total current assets, indicating when any such amount is due from affiliates other than parents and subsidiaries; (b) indebtedness of a parent or subsidiary, or an affiliate designated under paragraph (a) (2) shall not be considered current unless the net current asset position of such person justifies such treatment.

8. *Total current assets.*

OTHER ASSETS AND UNRECOVERED PROMOTIONAL, EXPLORATORY, AND DEVELOPMENT COSTS

9. *Securities of affiliates.*

10. *Indebtedness of affiliates;* not current.

11. *Other security investments.* In a note herein referred to state the basis of determining the amount. If available, state parenthetically or otherwise the aggregate amount on the basis of market quotations.

12. *Amounts due (not current) from underwriters, promoters, directors, officers, employees, and principal holders of equity securities other than affiliates.* The instruction to caption (6) shall apply here.

13. *Property, plant, and equipment.*[7] (a) Identify separately intangible property and property held under lease, option, and lease and option agreements. Identify items acquired from persons having a material relationship to the registrant. Extend only the total number of units of each class of securities, the amount of cash, and/or an indication of anything else, given by the registrant therefor. Except as stated in footnote (1), dollar amounts shall be extended only for cash transactions.

(b) In a note state as to property held under lease, option, or lease and option agreements or purchase contracts (1) the nature and amount of future payments to be made, (2) whether the property on default will revert to the seller, and (3) whether any assets constructed on or attached to the property will become the property of the seller on default.

13A. *Mine property.* Set forth hereunder property usually extinguished by depletion such as mines, mining claims, water rights, land for waste dumps, and similar property. The instructions set forth under caption 13, including footnote if applicable, shall also apply to this caption.

14. *Unrecovered promotional, exploratory, and development cost.* Set forth under this caption unrecovered costs incurred in promotion, exploration and development.

State separately (a) development expenses, (b) plant and equipment maintenance expenses, (c) rehabilitation expenses, (d) general administrative expenses incurred in a period when there was little or no actual mining and (e) other expenses. Do not include securities selling costs under this caption but include them under captions (17) or (18). General administrative expenses incurred in connection with subcaptions (a), (b) and (c) should be included therein. Any other general administrative expenses not chargeable to those subcaptions nor written off as costs or other operating charges (including taxes, protection and conservation of property when inactive) shall be included under subcaption (d). Extend only the total number of units of each class of securities, the amount of cash and/or an indication of anything else, given by the registrant. Dollar amounts shall be extended only for cash transactions, including, when appropriate, depreciation, depletion, and amortization of assets extended at dollar amounts under captions 13 and 13A. The instructions set forth under caption 13, footnote (1) to caption 13 and caption 13A, if appropriate, should be applied also to any unrecovered promotion, exploratory, and development costs incurred by predecessors of the registrant.

15. *Reserves for depreciation, depletion, and amortization of property, plant, and equipment and unrecovered promotional, exploratory, and development costs (or reserves in lieu thereof).* Set forth hereunder only the amount of the reserve for depreciation, depletion, and amortization of property, plant, and equipment and unrecovered costs incurred in promotion, exploration, and development applicable to the dollar amounts extended under captions 13, 13A and 14 above.

16. *Prepaid expenses and other deferred items.* State separately any significant items not shown elsewhere. Prepayments of services to be received within one year may, however, be included under caption 7.

17. *Debt discount and expense.* State in a note referred to in the statement of assets and unrecovered promotional, exploratory, and development costs the method used in amortizing such debt discount and expense.

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[4] The purpose of the amendment is to make uniform the information with respect to depreciation, depletion, and amortization of mine property, plant, and equipment and unrecovered promotional, exploratory, and development costs, shown in the Statement of Assets and Unrecovered Promotional, Exploratory, and Development Costs and in this section by certain mining companies using Form 10, Form 10–K or Form 1–MD.

[5] The purpose of §§ 210.5a–01 to 210.5a–07 is to require commercial, industrial, and mining companies in the promotional, exploratory or development stage to prepare financial statements, except as otherwise specified in the applicable form, in accordance with the sections regarding form and content set forth therein.

[6] For the purpose of financial statements prepared pursuant to the instructions contained in this article a mine will be considered to have passed from a development to a production stage when the major portion of the mineral production is obtained from workings other than those opened for the purpose of exploration or development or when the principal activity of the mine becomes the production of developed ore rather than the development of additional ores for mining.

[7] *Special instructions regarding this caption for mining companies using §§ 210.5a–01 to 210.5a–07.* Include hereunder only depreciable mine plant and equipment. See caption 13A or the disposition of mine property subject to depletion. In those situations where depletable mine property and depreciable mine plant and equipment and other assets were acquired in one transaction in exchange for capital stock of the registrant or for cash, capital stock, or other securities of the registrant and any other consideration, the assets acquired such as accounts receivable, supplies, buildings, mining and mill equipment, which have a fixed or objectively determinable value should be valued on those bases. The dollar amounts assigned to these properties shall be extended.

18. *Commissions and expense on capital shares.* Explain in a note referred to in the statement of assets and unrecovered promotional, exploratory, and development costs what provisions have been made for writing off these items.

19. *Other assets.* State separately any other item in excess of five percent of the amount of all assets other than fixed and intangible ones.

§ 210.5a–03 *Statement of liabilities.* The statement of liabilities filed for the persons to whom §§ 210.5a–01 to 210.5a–07 are applicable shall comply with the following provisions:

CURRENT LIABILITIES

1. *Notes payable.* State separately amounts payable (a) to banks; (b) for merchandise, materials, supplies, and expenses incurred in the ordinary course of business; and (c) to others.

2. *Accounts payable.* State separately amounts payable (a) for merchandise, materials, supplies, and expenses incurred in the ordinary course of business; and (b) to others.

3. *Accrued liabilities.* State separately (a) accrued payrolls; (b) tax liability; (c) interest; (d) rents and royalties; and (e) any other significant items. If the total under this caption is not significant it may be stated as one amount.

4. *Amounts due to underwriters, promoters, directors, officers, employees, and principal holders of equity securities other than affiliates.* State separately the total amount, if significant, due to each class of persons named in the caption to this paragraph. Exclude from the amounts set forth hereunder trade accounts subject to the usual trade terms.

5. *Other current liabilities.* State separately (a) dividends declared; (b) notes and mortgage instalments, mortgages due within one year, and payments on other long-term debt due within one year; (c) total of current amounts due to parents and subsidiaries; and (d) any other item in excess of five percent of total current liabilities indicating any such liability due to affiliates other than parents and subsidiaries. Remaining items may be shown in one amount.

6. *Total current liabilities.*

DEFERRED INCOME

7. *Deferred income.*

LONG TERM DEBT AND OTHER LIABILITIES

8. *Bonds, notes, and other liabilities represented by securities.* Show for each class (a) title of the class; (b) the amount authorized; (c) the amount issued; and (d) the amount reacquired and held in the treasury (show such amount as a deduction). As to issued securities, show separately in a note the amount issued for (1) cash, (2) property, and (3) services. The facts and amounts with respect to any defaults in principal, interest, sinking fund, or redemption provisions shall be stated.

9. *Indebtedness to affiliates; not current.*

10. *Amounts due (not current) to underwriters, promoters, directors, officers, employees, and principal holders of equity securities other than affiliates.* The instruction to caption 4 above shall apply here.

11. *Other liabilities; not current.* State separately any significant items. State whether accrued, and the interest rate if any.

12. *Total liabilities.*

§ 210.5a–04 *Statement of capital shares.* The statement of capital shares filed for the persons to whom §§ 210.5a–01 to 210.5a–07 are applicable shall comply with the following provisions:

(a) State for each class of capital shares the title and number of shares (1) authorized, (2) issued, (3) reacquired and held in the treasury, (4) outstanding, and (5) reserved for option, warrant, conversion, and other rights to acquire such shares.

(b) As to each class of issued shares state the number of shares issued for (1) cash, (2) services, and (3) property.

(c) If there are any shares subscribed for but unissued, state the number of shares of each class subscribed for, the subscription price, the total amount receivable thereon, and the approximate due dates. If payable otherwise than in cash, explain. If any unpaid amounts on such shares are past due, state the number of shares and amounts involved.

(d) If any shares are assessable, state the aggregate and per-share amounts of assessments levied. If any such assessments have not been paid, state the number of shares and amounts involved, indicating separately any amounts past due.

(e) If any shares have been issued subject to a liability for further calls, state the number of shares so issued and the aggregate and per-share amounts of such liability. State also the aggregate amount of any past due calls.

(f) If any shares have been forfeited for non-payment of assessments or calls thereon, state the number of shares involved and the present status of such shares.

(g) State the total amount of underwriting discounts and commissions incurred on sale of capital shares.

(h) As to any arrears in cumulative dividends, the amount per share and in total shall be stated.

(i) If preferred shares are callable, the date or dates and the amount per share and in total at which such shares are callable shall be stated. Preferences on involuntary liquidation, if other than par or stated value, shall be shown. A statement shall be made as to the existence, or absence, of any restrictions upon surplus growing out of the fact that upon involuntary liquidation the preference of the preferred shares exceeds its par or stated value.

§ 210.5a–05 *Statement of other securities.* If the persons to whom §§ 210.5a–01 to 210.5a–07 are applicable have any securities with respect to which information is not called for in the statement of liabilities or in the statement of capital shares, furnish as to such securities information corresponding to that required in those statements.

§ 210.5a–06 *Statement of cash receipts and disbursements.*[1] The statement of cash receipts and disbursements filed for persons to whom §§ 210.5a–01 to 210.5a–07 are applicable shall comply with the following provisions:

RECEIPTS

Sale of securities	$
(Itemize receipts by classes of securities.)	
Assessments	$
Loans by banks	$
Loans by others	$
Sale of products	$
Donations	$
Royalties	$
Rents, tolls, and similar receipts	$
Other receipts	$
(Specify and show separately any items of significant amount. Details may be given in a separate schedule if referred to under this caption.)	
Total receipts	$

DISBURSEMENTS

Loans repaid	$
Commissions and other selling expenses in connection with the sale of securities	$
Legal and accounting fees	$
Fees of engineers, appraisers, and other similar experts	$
Payments on options, leases, lease and option agreements, and purchase contracts	$
(Show separately each payment of significant amount and identify the property for which paid.)	
Royalties	$
Contract work (specify)	$
Purchase of equipment	$
Salaries of directors and officers	$
Other salaries and wages	$
Merchandise, materials, and supplies	$
Taxes	$
Dividends	$
Other disbursements	$
(Specify and show separately any items of significant amount. Details may be given in a separate schedule if referred to under this caption.)	
Total disbursements	$
Net increase (or decrease) in cash during period	$
Cash and cash items balance at beginning of period	$
Cash and cash items balance at close of period	$

§ 210.5a–07 *What schedules are to be filed.* The following schedules are required to be filed as a part of an application for registration on form 10 and as part of an annual report on form 10–K and on form 1–MD by companies to whom §§ 210.5a–01 to 210.5a–07 are applicable.

(a) The schedules specified below in this section as schedules I, II, and III shall be filed as of the date of the statement of assets and unrecovered promotional, exploratory, and development costs and statement of liabilities filed for each person.

Such schedules shall be certified.

(b) The information required in schedules for the registrant and for its subsidiaries may be presented in the form of a single schedule, provided that items pertaining to the registrant and those pertaining to each subsidiary are separately shown and that such single schedule affords a properly summarized presentation of the facts.

(c) References to the schedules shall be made against the appropriate captions of the statement of assets and unrecovered promotional, exploratory, and development costs.

[1] If the registrant maintains its books on the accrual basis items of income and expense reported in the statement of cash receipts and disbursements may be presented on such basis, provided entries are introduced in the statement to reconcile the figures in total to the cash receipts and cash disbursements respectively.

(d) If the information required by any schedule (including the footnotes thereto) may be shown in the related statement of assets and unrecovered promotional, exploratory, and development costs, without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(e) If schedules, other than those specifically called for by paragraph (a) of this section, are required to make clear and not confusing certain material items appearing in the financial statements, the registrant may use the appropriate schedule set forth in §§ 210.12-01 to 210.12-34 to present the additional information required by § 210.3-06.

Schedule I. Property, plant, and equipment. The schedule prescribed by § 210.12-06 shall be filed in support of caption 13 and caption 13A of each statement of assets and unrecovered promotional, exploratory, and development costs.

Schedule II. Unrecovered promotional, exploratory, and development costs. The schedule prescribed by § 210.12-06a shall be filed in support of caption 14 of each statement of assets and unrecovered promotional, exploratory, and development costs.

Schedule III. Reserves for depreciation, depletion, and amortization of property, plant, and equipment and unrecovered promotional, exploratory, and development costs (or reserves in lieu thereof) The schedule prescribed by § 210.12-07 shall be filed in support of caption 15 of each statement of assets and unrecovered promotional, exploratory, and development costs.

7. Article 12 is amended by adding a new section, designated as § 210.12-06a (Rule 12-06A) *Unrecovered promotional, exploratory, and development costs.*[9]

§ 210.12-06a *Unrecovered cost incurred in the promotional, exploratory, and development stage.*[10]

[For commercial, industrial, and mining companies specified in paragraphs (b) and (c) of § 210.5a-01 when filing applications for registration on form 10 and annual reports on form 10-K and form 1-MD, pursuant to the provisions of the Securities Exchange Act of 1934]

Column A	Column B	Column C	Column D	Column E
Classification [1]	Balance at beginning of period.[2]	Additions at cost [3]	Deductions [4]	Balance at close of period.[5]

[1] Show by major classifications under (1) development expenses, (2) plant and equipment maintenance expenses, (3) rehabilitation expenses, (4) general administrative expenses incurred in a period when there was little or no actual mining, and (5) other expenses. If unrecovered cost incurred in exploration and development work abandoned is carried at other than a nominal amount indicate, if practicable, the amount thereof and state the reason for such treatment. Items of minor importance may be included under a miscellaneous caption.

[2] The balance at the beginning of the period of report may be as per the accounts. If neither the total additions nor the total deductions during the period amount to more than 10 percent of the closing balance and a statement to that effect is made, the information required by columns B, C, and D may be omitted provided that the totals of columns C and D are given in a footnote and provided further that any information required by notes 4, 5, and 6 shall be given and may be in summary form.

[3] If the changes in unrecovered cost incurred in promotional, exploratory, and development work in column C represent anything other than additions from acquisitions, state clearly the nature of the changes and the other accounts affected. If acquired from an affiliate at other than cost to the affiliate, show such cost, provided the acquisition by the affiliate was within two years prior to the acquisition by the person for which the statement is filed.

[4] (a) Include in this column unrecovered cost incurred in development and exploratory work abandoned and written off. If such abandonments are stated at other than cash cost, explain if practicable.

(b) Include in this column proceeds from ore sales and other income if so credited on the books; state separately and describe.

(c) If provisions for amortization of unrecovered cost incurred in promotional, exploratory, and development work are credited in the books directly to such deferred expense accounts, the amounts shall be stated in column D with explanations, including the accounts to which charged.

[5] The balance at the close of the period for each major classification set forth in this schedule shall be subdivided and presented in three additional columns, if practicable, to show the amount of unrecovered cost incurred in promotional, exploratory, and development work accumulated and added during (a) the five years prior to the date of the related statement of assets and unrecovered promotional, exploratory, and development costs, (b) the period of the sixth to fifteenth year inclusive prior to the date of the related statement of assets and unrecovered promotional, exploratory, and development costs, and (c) the period from the inception of the registrant and its predecessors to the fifteenth year prior to the date of the related statement of assets and unrecovered promotional, exploratory, and development costs. If it is impracticable to subdivide the total of each major classification set forth in column E, the grand total of such column shall nevertheless be subdivided in the manner indicated in the immediately preceding sentence in which case the information may be furnished in a footnote to this schedule.

The foregoing action shall be effective October 29, 1948, except that financial statements filed as a part of any registration statement, application for registration or annual report, to which the foregoing action applies, filed with the Commission prior to December 31, 1948, may be prepared in accordance with the applicable requirements as in effect immediately prior to October 29, 1948.

(Secs. 6, 7, 8, 10, 19 (a) 12, 13, 23 (a) 48 Stat. 78, 79, 81, 85, 892, 894, 901, sec. 15 (d) 49 Stat. 1379; 15 U. S. C. 77f, g, h, j, s, 78*l*, m, o, w)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

OCTOBER 28, 1948.

[F. R. Doc. 48-9606; Filed, Nov. 1, 1948; 8:49 a. m.]

PART 249—FORMS PRESCRIBED UNDER THE SECURITIES EXCHANGE ACT OF 1934

FINANCIAL STATEMENTS

Acting pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly sections 12, 13, 15 (d) and 23 (a) thereof, the Securities and Exchange Commission hereby amends the Instruction Book for Form 10 (17 CFR 249.210) and Form 10K (17 CFR 249.310) as follows:

[9] The purpose of this section is to require the classification and aging of these unrecovered costs which were paid for in cash or which are to be paid for in cash.

[10] Include in this schedule only unrecovered cost incurred in promotional, exploratory, and development work paid for in cash, or to be paid for in cash, and, when appropriate, depreciation, depletion, and amortization of assets extended at dollar amounts under captions 13 and 13A of § 210.5a-02.

1. The Instruction Book for Form 10 is amended by adding at the end of the instructions to Item 36, Financial Statements, the following additional paragraphs:

Item 36. Financial statements. • • •

Notwithstanding the foregoing, if the registrant falls within the terms of paragraph (b) or (c) of § 210.5a-01 (Rule 5A-01) of Regulation S-X (17 CFR, Part 210), the following statements and schedules, all of which shall be certified, shall be filed for the registrant and each of its significant subsidiaries, if any:

(a) The statements specified in §§ 210.5a-02, 210.5a-03, 210.5a-04, and 210.5a-05 (Rules 5A-02, 5A-03, 5A-04, and 5A-05) and the schedules specified in § 210.5a-07 (Rule 5A-07) shall be filed as of the end of the latest fiscal year, except that if such fiscal year has ended within 90 days prior to the date of filing the application with the exchange, such statements and schedules may be filed as of the end of the preceding fiscal year.

(b) The statement of cash receipts and disbursements specified in § 210.5a-06 (Rule 5A-06) shall be filed for each of the three fiscal years preceding the date of the statements and schedules required by paragraph (a).

(c) If the statements and schedules required by paragraph (a) are filed as of the end of the preceding fiscal year, corresponding statements and schedules as of the end of the latest fiscal year, and a statement of cash receipts and disbursements for such fiscal year, shall be filed as an amendment to the application within 120 days after the date of filing.

2. The Instruction Book for Form 10K (§ 249.310) is amended by adding at the end of the instructions to Item 8, Financial Statements, two new instructions reading as follows:

Item 8, Financial Statements. • • •

5. *Registrants not in the production stage.* Notwithstanding the foregoing instructions, if the registrant falls within the terms of paragraph (b) or (c) of § 210.5a-01 (Rule 5A-01) of Regulation S-X (17 CFR, Part 210), the following statements and schedules, all of which shall be certified, shall be filed for the registrant and each of its significant subsidiaries, if any:

(a) The statement specified in §§ 210.5a-02, 210.5a-03, 210.5a-04, and 210.5a-05 (Rules 5A-02, 5A-03, 5A-04, and 5A-05) and the schedules specified in § 210.5a-07 (Rule 5A-07) shall be filed as of the end of the fiscal year.

(b) The statement of cash receipts and disbursements specified in § 210.5a-06 (Rule 5A-06) shall be filed for the fiscal year.

6. *Filing of other statements in certain cases.* If, in any case, the statements herein required are inadequate or inappropriate, the Commission may, upon the informal written request of the registrant, permit the omission of one or more of the statements herein required and the filing in substitution therefor of appropriate statements of comparable character. The Commission may also by informal written notice require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary for a proper presentation of the financial condition of any person for which financial statements are required, or for which such statements are otherwise necessary for the protection of investors.

The foregoing action shall be effective October 29, 1948, except that financial statements filed as part of any registration statement, application for registration or annual report, to which the fore-

going action applies, filed with the Commission prior to December 31, 1948, may be prepared in accordance with the applicable requirements as in effect immediately prior to October 29, 1948.

(Secs. 12, 13, 23 (a) 48 Stat. 892, 894, 901, sec. 15 (d) 49 Stat. 1379; 15 U. S. C. 78*l*, m, o, w)

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

OCTOBER 28, 1948.

[F. R. Doc. 48-9607; Filed, Nov. 1, 1948; 8:49 a. m.]

TITLE 24—HOUSING CREDIT

Chapter V—Federal Housing Administration

MISCELLANEOUS AMENDMENTS

The following miscellaneous amendments are hereby made to Chapter V:

PART 500—GENERAL

1. The codification of §§ 500.1 to 500.22, inclusive, which describe the powers, delegation of authority, and field organization of the Administration, is hereby discontinued. Future amendments to these provisions will be published in the Notices section of the FEDERAL REGISTER.

2. Sections 500.30 to 500.36, inclusive, are redesignated §§ 500.1 to 500.7, respectively, and §§ 500.100 to 500.102, inclusive, are redesignated §§ 500.25 to 500.27, respectively.

3. The heading of Subpart A is amended to read "Official Records" and will precede the redesignated § 500.1; Subparts B and C are deleted and Subparts D and E are redesignated Subparts B and C.

PART 521—MUTUAL MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE TO FOUR FAMILY DWELLINGS

The heading of Part 521 is amended to read as set forth above.

PART 522—MUTUAL MORTGAGE INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER INSURANCE CONTRACT

The heading of Part 522 is amended to read as set forth above.

PART 531—SCOPE OF OPERATIONS UNDER SECTIONS 207 AND 210, NATIONAL HOUSING ACT

Part 531 is hereby revoked.

PART 532—MULTIFAMILY HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING MULTIFAMILY HOUSING

The heading of Part 532 is amended to read as set forth above.

PART 533—RENTAL HOUSING INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER INSURANCE CONTRACT

The heading of Part 533 is amended to read as set forth above.

PART 536—ECONOMIC SOUNDNESS OF PROJECT

The heading of Part 536 is amended to read as set forth above.

PART 551—FARM MORTGAGE INSURANCE; ELIGIBILITY REQUIREMENTS

The heading of Part 551 is amended to read as set forth above.

PART 552—FARM MORTGAGE INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER INSURANCE CONTRACT

The heading of Part 552 is amended to read as set forth above.

PART 561—REGULATIONS UNDER TITLE III OF THE NATIONAL HOUSING ACT

Part 561 is hereby revoked.

PART 576—WAR HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING ONE TO FOUR FAMILY DWELLINGS

The heading of Part 576 is amended to read as set forth above.

PART 577—WAR HOUSING INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER INSURANCE CONTRACT

The heading of Part 577 is amended to read as set forth above.

PART 578—WAR HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE UNDER SECTION 603 PURSUANT TO SECTION 610 OF THE NATIONAL HOUSING ACT

The heading of Part 578 is amended to read as set forth above.

PART 580—MULTIFAMILY WAR HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE COVERING MULTIFAMILY RENTAL HOUSING

The heading of Part 580 is amended to read as set forth above.

PART 582—MULTIFAMILY WAR HOUSING INSURANCE; RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER INSURANCE CONTRACT

The heading of Part 582 is amended to read as set forth above.

PART 583—MULTIFAMILY WAR HOUSING INSURANCE; ELIGIBILITY REQUIREMENTS OF MORTGAGE UNDER SECTION 608 PURSUANT TO SECTION 610 OF THE NATIONAL HOUSING ACT

The heading of Part 583 is amended to read as set forth above.

PART 585—ELIGIBILITY REQUIREMENTS OF LOANS FOR MANUFACTURE OF HOUSES

The heading of Part 585 is amended to read as set forth above.

PART 586—RIGHTS AND OBLIGATIONS OF LENDER UNDER INSURANCE CONTRACT COVERING LOANS FOR MANUFACTURE OF HOUSES

The heading of Part 586 is amended to read as set forth above.

PART 588—ELIGIBILITY REQUIREMENTS OF BLANKET MORTGAGE COVERING GROUP OF SINGLE FAMILY DWELLINGS

The heading of Part 588 is amended to read as set forth above.

PART 589—RIGHTS AND OBLIGATIONS OF MORTGAGEE UNDER INSURANCE CONTRACT COVERING GROUP OF SINGLE FAMILY DWELLINGS

The heading of Part 589 is amended to read as set forth above.

[SEAL] DONALD M. ALSTRUP, *Assistant Commissioner.*

OCTOBER 26, 1948.

[F. R. Doc. 48-9528; Filed, Nov. 1, 1948; 8:45 a. m.]

Chapter VI—Public Housing Administration

PART 601—CENTRAL OFFICE ORGANIZATION AND FINAL DELEGATION OF AUTHORITY TO CENTRAL OFFICE OFFICIALS

MISCELLANEOUS AMENDMENTS

Section 601.1 (c) through (j) is amended as of September 22, 1948 to read as follows:

§ 601.1 *Central Office organization and delegation of authority to Central Office officials.* * * *

(c) *Fiscal Division.* The Fiscal Division is headed by a Comptroller who is delegated the powers set forth in subparagraphs (1) (i) (ii) and (iii) of this paragraph. These powers may also be exercised by the Deputy Comptroller.

(1) The Fiscal Division is composed of the Finance and Accounts Branch, the Audit Branch and the Budget and Fiscal Analysis Branch, each headed by a Director. The Director of the Finance and Accounts Branch, his Administrative Assistant, and the Chief of the Financing Section of that Branch are delegated the power:

(i) To approve banks proposed or selected by local authorities as depositaries or fiscal agents in compliance with the local authorities' contracts for loans and annual contributions, to approve fees payable to the fiscal agents and to approve the use of banks or depositaries for PHA directly-operated, leased, or conversion-management projects;

(ii) To accept the service of process pursuant to attachment or garnishment proceedings served upon the Public Housing Administration with regard to any debtor-employee, to execute all necessary and proper documents required in connection therewith and appear to testify for the PHA when so ordered by a court of competent jurisdiction and upon proper legal notice; and

(iii) To execute Requisition Agreements pursuant to the United States Housing Act of 1937, as amended, and Public Law No. 671, approved June 28, 1940.

(iv) The powers delegated in subparagraphs (i) and (iii) of this paragraph may also be exercised by the Securities Examiner of the Finance and Accounts Branch.

(d) *Administrative Division.* The Administrative Division is headed by an Executive Officer who is delegated the powers set forth in subparagraphs (1) (i) (ii) (iii) and (iv) and (2) of this paragraph. The Administrative Division is composed of the Personnel and Planning Branch, the Office Services Branch, the Personal Property Branch, and the Document Control Branch, each headed by a Director.

(1) The Director of the Office Services Branch is responsible for procurement, control, and accountability, in connection with administrative (non-project) activities. The Director of the Personal Property Branch is responsible for the acquisition (except acquisition by the Office Services Branch) accountability, utilization, storekeeping, warehousing, and transportation of personal property, and for the disposition of all personal property. In carrying out their respective functions each of these Directors is delegated the power·

(i) To execute contracts for the purchase, leasing, and rental of equipment, supplies and space, and for the procurement of services other than personal services;

(ii) To execute contracts up to $100 for the temporary or intermittent employment of persons or organizations as experts or consultants; and

(iii) To order in (accordance with the provisions of General Accounting Office Gen. Reg. No. 109) the publication of advertisements.

(iv) The Director of the Personal Property Branch is delegated the power to dispose of personal property including the power to execute Certificates of Release (Standard Form 97) in connection with the disposal of motor vehicles.

(e) *Attesting Officer* The Executive Officer is designated as the Attesting Officer for the Public Housing Administration in the Central Office. The Attesting Officer shall affix the official seal to such documents as may require its application, and is authorized to certify that copies of documents, leases, contracts and other papers duly approved, are identical with the originals on file in the Central Office. The Director, Office Services Branch, and the Administrative Assistant of the Legal Division are designated as alternate Attesting Officers in the Central Office and shall have the same duties, functions, and authority vested in the Attesting Officer.

(f) *Acting Commissioner* Such person as the Commissioner shall designate from time to time to serve as Acting Commissioner during periods when he is absent from duty, is authorized to exercise all the powers, duties, and functions, while so acting, that are vested in the Commissioner.

(g) *Acting officials.* Such persons as are designated from time to time to serve in an acting capacity for any officials of PHA, as provided in Parts 601 or 602, during periods when such officials are absent from duty, are authorized to exercise all the powers, duties, and functions, while so acting, that are vested by these Parts in the officials for whom they act.

(h) *Central Office address.* The address of the Central Office is Public Housing Administration, Longfellow Building, Washington 25, D. C. (Sec. 3, 60 Stat. 238; 5 U. S. C. 1002)

[SEAL] JOHN TAYLOR EGAN,
Commissioner

[F. R. Doc. 48-9613; Filed, Nov. 1, 1948; 8:51 a. m.]

TITLE 38—PENSIONS, BONUSES AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 2—ADJUDICATION; VETERANS' CLAIMS

PART 4—ADJUDICATION; VETERANS' CLAIMS, CENTRAL OFFICE SECTION

JURISDICTION

1. In Part 2, § 2.1003 is amended to read as follows:

§ 2.1003 *Jurisdiction of adjudication division.* Within the jurisdiction of field adjudication activities, the adjudication division in each regional office or center, under the direction of an adjudication officer, will be responsible for the preparation and adjudication of claims for disability compensation or pension and determining, upon proper request, service connection for the condition or conditions for which out-patient treatment only is requested; for determining whether the character of discharge is a bar to benefits, including benefits under Titles II, III and V of Public Law 346, 78th Congress, as amended, and hospital treatment, domiciliary care, and out-patient treatment for service-connected disabilities under Public No. 2, 73d Congress, as amended, in doubtful cases; for determining whether disabilities are service-connected and compensable for purposes of vocational rehabilitation; for determining whether the injury or disability for which discharged, in those instances where the veteran served less than ninety days, was incurred or aggravated in line of duty for the purposes of Titles II, III and V Public Law 346, 78th Congress, as amended; for the preparation and adjudication of claims involving Public Law 314, 78th Congress. (Sec. 7, 48 Stat. 9, 58 Stat. 230; 38 U. S. C. 707, 26c)

2. In Part 4, paragraph (o) of § 4.2025 is amended as follows:

§ 4.2025 *Jurisdiction of the claims division, central office.* * * *

(o) In cases under the jurisdiction of the division where retired persons, as contemplated by Public Law 314, 78th Congress, file application for monetary benefits under any of the laws administered by the Veterans' Administration. (58 Stat. 230; 38 U. S. C. 26c)

[SEAL] O. W CLARK,
Executive Assistant Administrator

[F. R. Doc. 48-9604; Filed, Nov. 1, 1948; 8:49 a. m.]

TITLE 49—TRANSPORTATION AND RAILROADS

Chapter I—Interstate Commerce Commission

[Rev. S. O. 558, Amdt. 8]

PART 95—CAR SERVICE

REFRIGERATOR CARS FOR FRUIT AND VEGETABLE CONTAINERS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 26th day of October A. D. 1948.

Upon further consideration of Revised Service Order No. 558 (11 F R. 11817), as amended (11 F. R. 12233; 12 F. R. 4002, 5966, 6911, 8775; 13 F. R. 4190) and good cause appearing therefor: *It is ordered,* That:

Section 95.558 *Substitution of refrigerator cars for box cars, to transport fruit and vegetable containers and box shooks,* of Revised Service Order No. 558, be, and it is hereby, further amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* This order shall expire at 11:59 p. m., February 28, 1949, unless otherwise modified, changed, suspended or annulled by order of this Commission.

It is further ordered, That this amendment shall become effective at 12:01 a. m., November 16, 1948; that a copy of this order be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4, 54 Stat. 901, 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL] W. P BARTEL,
Secretary.

[F. R. Doc. 48-9601; Filed, Nov. 1, 1948; 8:48 a. m.]

[S. O. 834]

PART 95—CAR SERVICE

MINIMUM REDUCED ON COAL IN CERTAIN N. & W. CARS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 26th day of October A. D. 1948.

It appearing, that certain large capacity coal cars owned by the Norfolk and Western Railway Company are suitable for carrying coal only when they can be unloaded by a mechanical car dumper, and that such cars are not now being used; in the opinion of the Commission an emergency requiring immediate action exists in the section of the country shown below. It is ordered, that:

§ 95.786 *Minimum on coal in highside N. & W gondola cars.* (a) The minimum weight on coal loaded in Norfolk and Western Railway flat bottom highside gondola cars of 180,000-pound capacity, series 100,000 to 101,749, at or near Gary, West Virginia, destined to Carnegie-Illinois Steel Corporation, Gary, Indiana, shall be 60 net tons.

(b) *Application.* The provisions of this order shall apply only to such carload shipments of coal billed on or after the effective date hereof.

(c) *Tariff provisions suspended—announcement required.* The operation of Rule I of Norfolk and Western Railway Company tariff I. C. C. 3214-B and supplements thereto and reissues thereof, insofar as it conflicts with the provisions of this order is hereby suspended and the Norfolk and Western Railway Company, or its agent, shall publish, file, and post a supplement to its tariff affected hereby, on not less than 5 days' notice announcing such suspension.

(d) *Effective date.* This order shall become effective at 12:01 a. m., November 16, 1948.

(e) *Expiration date.* This order shall expire at 11:59 p. m., May 31, 1949, unless otherwise modified, changed, suspended or annulled by order of this Commission.

It is further ordered, that copies of this order and direction be served upon the Norfolk and Western Railway Company, and upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4; 54 Stat. 901, 49 U. S. C. 1 (10)–(17))

By the Commission, Division 3.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 48-9600; Filed, Nov. 1, 1948; 8:48 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 972]

HANDLING OF MILK IN THE TRI-STATE MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS THERETO WITH RESPECT TO A PROPOSED AMENDMENT TO THE TENTATIVE MARKETING AGREEMENT AND TO THE ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904) notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed amendment to the order, as amended, and to the tentative marketing agreement, regulating the handling of milk in the Tri-State marketing area, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (U. S. C. 601 et seq.).

Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 15th day after its publication in the FEDERAL REGISTER.

Preliminary statement. A public hearing was called by the Production and Marketing Administration, United States Department of Agriculture, on a proposal filed jointly by The Scioto County Cooperative Milk Producers Association, The Athens Milk Sales, Inc., The Marietta Cooperative Milk Producers Association, and The Huntington Interstate Milk Producers Association (hereinafter referred to as "the proponents"). The public hearing was held at Huntington, West Virginia, on May 12 and 13, 1948, pursuant to notice duly published in the FEDERAL REGISTER (13 F. R. 1308, 1941, 2232).

The present order provides that the effective basic formula price, used for the computation of class prices, shall be the highest price resulting for the delivery period (calendar month) from three separate formulas: one based on the current market prices of butter and nonfat dry milk solids; the second on the current market prices of butter and cheese; and the third on the average of prices paid by 18 specified manufacturing plants.

The material issued presented on the record of the hearing and covered by this decision is whether the butter-cheese price and butter-nonfat dry milk solids price formulas, referred to above, should be replaced in the order with a new alternate price formula, the price produced by the new formula to be the effective basic formula price in any delivery period when such price is higher than the average pay-price of the 18 manufacturing plants.

The formula proposed provides for "adjustment" of the average condensery price for the current month by a factor designed to reflect changes from a base level in certain economic factors (prices of feeds, farm wages, the wholesale price level, retail store sales, and prices of alternate users of feed, such as beef cattle, hogs, sheep, and poultry) in relation to changes in the average price for condensery milk. The specific procedure for calculating the proposed formula price may be outlined in the following manner:

1. (a) Compute a weighted average price relative for Ohio dairy feeds by averaging the combined (weighted) monthly prices of the following feeds for the previous 60 months and dividing into the combined (weighted) prices for the current month, using the following weights: corn, 50 percent; oats, 20 percent; soybean meal, 15 percent; linseed meal, 5 percent; bran, 5 percent; and middlings, 5 percent.

(b) Compute a price relative for hay by averaging the prices per ton received by Ohio farmers for all hay for the previous 60 months and dividing into the price for the current month.

(c) Compute a wage rate relative by averaging Ohio farm wage rates for the previous 60 months and dividing into the wage rate for the current month.

(d) Combine the dairy feed, hay, and farm wage relatives into an index by multiplying the dairy feeds relative by 40, hay by 27, and wages by 33, and adding the three results.

2. Compute a price relative for each of the following livestock products by dividing the average price for the previous 60 months into the current month's price. Combine these relatives into an index of alternate feed uses by using the following weights: hogs, 44 percent; eggs, 20 percent; beef cattle, 20 percent, chickens, 10 percent; lambs, 3 percent, veal calves, 2 percent; and wool, 1 percent.

3. Compute an index of wholesale prices of all commodities, as reported for the United States by the United States Bureau of Labor Statistics, by averaging the indexes of the previous 60 months and dividing this average into the index of the current month.

4. Compute an index of retail store sales in Ohio by averaging the indexes of the previous 60 months, as quoted by the Bureau of Business Research of the Ohio State University, and dividing this average into the index for the current month.

5. Calculate a "composite index" by weighting the foregoing four indexes as follows: feed and labor costs, 40 percent; alternate feed uses, 10 percent; wholesale prices of all commodities, 25 percent, and retail store sales, 25 percent.

6. Calculate an index of prices paid producers for milk at the 18 specified milk manufacturing plants (same as referred to above) by dividing the current month's average price by the average of prices paid during the previous 60 months.

7. Obtain a "correlation factor" by dividing the "composite index" of the four economic factors for the current month by the index of prices paid producers at the 18 plants for the current month.

8. Compute a price (unadjusted for seasonality) by multiplying the current month's average price paid producers at the 18 plants by the "correlation factor" of the current month.

9. Compute the formula price for the current month by multiplying the unadjusted price (8 above) by a specified seasonal factor for the respective month (based on the seasonal patterns of periods 1925–29 and 1935–39)

In the establishment of a "base" period for the computation of the indexes previously mentioned, proponents have proposed the use of either a moving average for the corresponding months of the preceding 5 years (no seasonal adjustment required) or a moving average for the immediately preceding 60-month period. It appears from the record that the proponents favor the 60-month moving average plan of adjustment, outlined above, and therefore in the following paragraphs particular attention is given to the latter plan. The moving average adjustment based upon the corresponding months of the preceding 5 years also has received study and is commented upon at a later point in this decision.

Although mentioned in the testimony, the proponents stated that application of an index adjustment computed from a fixed base period (1935–39) is not considered desirable. No testimony was directed to it and for all practical purposes the plant was abandoned by the proponents. It is determined, therefore, that such plan of adjustment has not been submitted for consideration.

Findings and conclusion. The following findings and conclusion on the material issue decided herein are hereby made upon the basis of the record of the hearing:

The particular significance of the proposed formula is in the fact that it attempts to "correct" automatically the current level of condensery prices in line with the relative changes of (a) condensery prices and (b) the specified economic factors, from the average of the most recent 60-month period. This adjustment of the condensery price for the current month results in a price bearing the same relationship currently to the specified economic factors as existed, on the average, between condensery prices and these economic factors during such 60-month period. Emphasis was placed in the testimony on the concept that the maintenance of such relationship is essential to the satisfactory pricing of market milk in the Tri-State marketing area.

The stated objectives sought by the proponents in proposing the new formula may be indicated as follows:

(a) To bring about and to maintain an adequate supply of milk by keeping the market price for milk in "proper" relationship to wages paid workers, wholesale prices, and feed prices; to assure both producers and consumers that such a relationship of milk prices to the other specified economic factors will be maintained;

(b) To prevent price upsets and to eliminate the necessity of having public hearings on price changes as often as in the past;

(c) To insure handlers a method of predicting with reasonable accuracy the price they will be required to pay for milk in any given month; and

(d) To eliminate the influence of any "manipulation" of condensery prices in the determination of the price for market milk.

Much of the testimony offered in support of the proposed formula, including the statement of objectives, appears to assume that it would be used as the sole basis for the establishment of class prices. Although the proposal calls for its use as an alternate formula only, to be effective when its resulting price is higher than the current average pay-price of the 18 specified manufacturing plants, the case presented suggests the pertinency of examining individual characteristics of the formula as well as giving consideration to its application as an alternate.

The first objective stated is to bring about and to maintain an adequate supply of milk by keeping the market price for milk in "proper" relationship to wages paid workers, wholesale prices, and feed prices. The theory advanced is that adequate milk supplies may be obtained for the indefinite future by keeping the "basic" price for market milk in the same relationship to the specified economic factors included in the formula as existed during the most recent 60-month period. The basis for this contention, however, is not revealed. The record discloses that use of the proposed formula as the determining base for milk prices from August 1945, the first delivery period under the order, to January 1947 would have returned to producers much less money than actually was paid to them, assuming use of the same class price differentials. On the other hand during this 17-month period, qualified producer milk supplies were insufficient under the prevailing price schedule to cover Class I and Class II milk uses in 13 months at Huntington District plants and in 12 months at other plants. Supplementary, or emergency, milk supplies were necessary during most of the 17-month period. Since the proposed formula would have brought less money to producers, it is difficult to conclude that maintenance of the basic formula price in the proposed relationship to wages, wholesale prices, and feed prices, during such period would have resulted in a price plan as well fitted to the objective of inducing the production of adequate milk supplies as the plan in effect during the period.

The prevention of price upsets was indicated as another important objective. In this connection it was contended that "sharp fluctuation in prices during certain periods have caused dissatisfaction among producers and handlers in the Ohio markets and some serious dislocation of supplies" and that a need had arisen "for resort to premiums by agreement between handlers and producers, the establishment of price floors and suspension of certain price provisions in orders." It may be inferred from this testimony that such price changes, and the related matters referred to, are considered by the proponents to be market problems. No evidence was submitted, however, to show that "sharp fluctuations" in prices are wholly undesirable for the Tri-State marketing area. Condensery prices vary seasonally and may vary markedly over the short-run period inversely from the general pattern of movement of the economic factors included in the proposed formula. Since the record discloses no testimony in support of minimizing the seasonal movement of milk prices in the market, it appears that the stability of prices sought is the prevention of short-run aberrations of prices contrary to the movement of the prices of feeds, farm wages, wholesale prices, retail store sales, and the prices of the competing users of feeds.

It would be difficult to conclude from the price data in the record that the proposed formula would aid significantly in achieving the latter objective. Similarly, the evidence does not show that sharp changes in price would be eliminated. The calculated price from the proposed formula shows an increase from the low to the high month in 1946 of $1.24 per hundredweight as compared with a low to high month increase in the condensery average of $1.182. In 1947 the low to high month increase was $1.20 per hundredweight for the calculated price and $1.169 for the condensery average. The only sharp decrease in condensery prices occurring since the original date of the order was a decrease from $4.54 per hundredweight in November 1946 to $2.97 per hundredweight in June 1947. Although the fluctuations resulting in increases were greater for the calculated price than for the condensery price average in both 1946 and 1947, the above-mentioned decrease in price occurring in early 1947 is the only price change referred to by the proponents as having been a "sharp fluctuation" in price. If this decrease in the condensery price is to be considered "sharp" or "abnormal" then the immediately preceding increase in such price from $2.91 in June 1946 to $4.54 in the following November, enjoyed by producers, must be considered as an offsetting factor. It may be noted that the condensery price level in June 1947 was within 6 cents per hundredweight of the level of June 1946 just prior to the rapid rise during the fall months of that year. Fluctuations occurring since June 1947 are shown by the record to have been relatively small and suggest an unusual situation in the latter part of 1946 and early 1947 brought about by postwar adjustment.

The record also lacks evidence to show any dislocation of supplies for the marketing area of the kind that the proposed formula conceivably might correct. It discloses, on the other hand, that premiums have not been resorted to between handlers and producers in the Tri-State marketing area during the life of the order to supplement the minimum prices established by regulation. Although price "floors" were placed in the order for a temporary period as a guarantee of certain minimum price levels, such action later proved unnecessary as the class prices resulting from the order formulas remained above the floor levels. No suspension orders affecting price were

employed in this market during any of the period referred to in the testimony.

The objectives of developing a basic price formula which would tend to reduce the number of hearings necessary for the proper adjustment of market prices and which would assure handlers a method of predicting with reasonable accuracy the minimum prices required to be paid also were expressed. The evidence does not disclose, however, that the formula presented for consideration here warrants adoption as a means of meeting these objectives. Handlers could not know, of course, the price resulting from the proposed formula until the condensery price average for the current month became available since it is the latter price that would be subject to adjustment under the formula. The possibility that some hearings might be eliminated in the adjustment of market prices is not of itself a sufficient basis for adoption of the formula in light of the other important considerations.

The proposed formula was supported by the additional argument that it would eliminate the influence of manipulation in condensery prices in arriving at the price of market milk. On this point proponents contended that condensaries had manipulated the decline in price which took place between November 1946 and June 1947. Any effect of the proposed formula in eliminating actual price manipulation would at best only be minor in view of the fact that the proposed formula would employ as one of its principal components the same series of condensery prices that is alleged to have been subject to manipulation from time to time.

Proposed as an alternative to the average condensery price for the current month; the proposed formula requires further appraisal since it is based upon an entirely different concept of pricing from that on which the present alternative formulas (butter-cheese, butter-nonfat dry milk solids, and condensery price average) were adopted. The formulas currently operative as alternates to each other reflect, of course, changes in the value of milk for the three principal categories of manufacturing use. They reflect also basic changes in conditions affecting nationally the supply and demand for manufacturing milk promptly as they occur. It is appropriate to employ them in the alternative because milk may be diverted readily from one of these categories to another. The proposed formula, on the other hand, goes beyond the function assigned to the formulas now in effect by introducing adjustments which would establish a fixed relationship between the condensery price for the current month and certain economic factors (some of which are local cost factors) according to their relationship during a past period, and therefore constitutes a completely new and different pricing base.

The basic formula price is only one component of the Class I and Class II price. In computing appropriate Class I and Class II prices for the Tri-State marketing area under the present pricing plan, it is necessary to add to the basic formula price, resulting from the application of the above formulas, certain dollar and cent differentials in recognition of the extra costs of producing milk of market quality. The Class I and Class II price differentials were established originally, and have been increased from time to time, upon review in hearing of the price level of feeds, the available supplies of feeds, and other economic conditions affecting the supply and demand for milk. Local factors or conditions affecting the production and marketing of milk of the required quality have been reflected in such differentials. Since the proposed formula would provide a different price base, it would not be appropriate to use the proposed formula in conjunction with the same class price differentials as are used in connection with the condensery price average. The use of the proposed formula as an alternative would place the specified class price differentials in the anomalous position of being used to reflect certain economic factors when used in conjunction with the condensery price for the current month as the basic formula price, but to reflect some other set of factors, or conditions, when used with the proposed formula. It may be noted that the record does not define the factors the class price differentials should reflect when used with the proposed formula price.

The actual effects of using the proposed formula as an alternate may be observed in terms of two main periods for which data are given in the evidence, the period from the original date of the order of January 1947 and the year 1947. The monthly average price of the 18 manufacturing plants has been the effective basic formula price under the order in nearly all months for the period the order has been in effect. Comparison of this price for such period with the proposed formula price shows that the "18 plant price" would have exceeded the proposed fomula price in all months until January 1947, with the exception of four months in the winter of 1945-46 when the latter would have been higher by 8.6, 2.1, 3.8, and 1.2 cents, respectively. In many months of this period, the 18-condensery price was substantially higher than the price computed under the proposed formula. It is clear that the relationship of milk prices to the other factors, stated to be essential, would not have been maintained during most of such period.

In 1947 the Class I and Class II prices, based on the effective class price differentials, would have averaged 76 cents per hundredweight higher than the level which prevailed. Although the relationship advocated would have been maintained during this period, the record does not reveal the propriety of a 76-cent per hundredweight increase in price. This result for 1947 appears to have been caused by the fact that it is mainly the war years on which the moving average was computed. Data in the record indicate that unusual relationships between the movement of condensery prices and the movement of the specified economic factors occurred during the latter period. The various types of regulatory controls in effect during the period obviously were in a large degree responsible for this situation.

It is observed also that under the proposed formula plan the unusual relationships which obtained during the wartime period would affect in varying degrees the establishment of market milk prices during a large portion of the next 60-month period. In view of the influence shown on 1947 prices and in the absence of a compelling reason for disregarding this circumstance, it is concluded that a base period involving the wartime period and affected by many artificial and widespread controls would not be a suitable period to use at the start of such a price plan.

If there is merit to the theory of maintaining a certain relationship between the basic formula price and the specified economic factors, such relationship should obtain whether the current condensery price is higher or lower than the price calculated from the formula. It appears inconsistent to argue on the one hand for an "adjusted" condensery price as the basic formula price and to argue further on the other hand that an "unadjusted" condensery price should be used in lieu thereof if the latter is higher. It seems pertinent to indicate in this connection that an adequate case made for the formula on individual merit would of necessity resist strongly its adoption as an alternate.

The relationship of the proposed formula to the pricing of Class III milk and to the two formulas it would replace should be mentioned briefly. The order provides that the price of Class III milk shall be the same as the basic formula price. Because of the importance of current competitive conditions in the determination of manufacturing milk prices, it is difficult to see how a price problem could be avoided if the price resulting from the proposed formula were used as the Class III price. It would be very unlikely that such price in any given month would either reflect closely the level of prices manufacturing plants in or near the Tri-State milkshed would pay for Class III (surplus) milk or provide handlers using surplus milk a price for such milk reasonably in line with the prices paid for milk by other manufacturers using milk in similar products. Producers could hardly be expected, on the other hand, to take substantially less than the prevailing condensary price for all their Class III milk. No attempt was made in the record to support a revision of present method of computing the Class III price.

The proposed formula has been offered as a substitute for the present formulas based on butter-nonfat dry milk solids prices and butter-cheese prices. The record, however, contains insufficient evidence to appraise the proposed formula in relation to the formulas it would replace. In view of the above considerations it is not sufficient to dismiss such two formulas on the ground that they seldom have produced prices higher than the monthly average condensery price.

The preliminary statement of this decision points out that the moving average adjustment based upon the corresponding months of the preceding 5 years has received study. Fundamentally, the differences between a moving average base computed on the corresponding

months over a 5-year period and a 60-month moving average do not appear significant. The price levels produced by the two bases do not coincide, of course, and the 60-month moving average has the advantage of removing "lag" between the period used as a base and the current month in applying the formula. The considerations with respect to the 60-month moving average set forth in this decision apply in the main to the moving average adjustment based upon the corresponding months of the preceding 5 years.

Briefs were filed on behalf of both the proponents and the handlers who would be subject to the proposed marketing agreement and order. Every point covered in the briefs was carefully considered, along with the evidence in the record, in making the findings and reaching the conclusions hereinbefore set forth. To the extent that findings and conclusions proposed in the briefs are inconsistent with the findings and conclusions contained herein, the requests to make such findings or to reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in this decision.

It is concluded, therefore, from the foregoing discussion of general considerations underlying the proposed formula, that such formula should not be adopted.

Filed at Washington, D. C., this 28th day of October 1948.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator

[F. R., Doc. 48-9619; Filed, Nov. 1, 1948; 8:52 a. m.]

[7 CFR, Part 986]

[Docket No. AO-196]

HANDLING OF HOPS GROWN IN OREGON, CALIFORNIA, WASHINGTON, AND IDAHO, AND OF HOP PRODUCTS PRODUCED THEREFROM IN THESE STATES

NOTICE OF HEARING WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601, et seq.; 61 Stat. 208, 707) and in accordance with the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps., 900.1 et seq., 12 F. R. 1159, 4904) notice is hereby given of a public hearing to be held with respect to a proposed marketing agreement and a proposed marketing order regulating the handling of hops grown in Oregon, California, Washington, and Idaho, and of hop products produced therefrom in these States. Such hearing will be held at Chamber of Commerce, 27½ North Third Street, Yakima, Washington, beginning at 9:30 a. m., P. s. t., November 29, 1948, at Chamber of Commerce, 147 North Liberty Street, Salem, Oregon, beginning 9:30 a. m., P. s. t., December 2, 1948; and at Native Sons Hall, Mendocino Avenue near Fifth Street, Santa Rosa, California, beginning at 9:30 a. m., P. s. t., December 6, 1948. The proposed marketing agreement and order have not received the approval of the Secretary of Agriculture.

This public hearing will be held for the purpose of receiving evidence with respect to the economic and marketing conditions relating to the provisions of the proposed marketing agreement and order which is hereinafter set forth, and any appropriate modifications thereof. The United States Hop Growers Association, Mills Building, San Francisco, California, has proposed the following marketing agreement and order regulating the handling of hops grown in Oregon, California, Washington, and Idaho, and of hop products produced therefrom in those States and has requested a hearing thereon (the provisions identified with an asterisk (*) apply only to the proposed marketing agreement and not to the proposed marketing order)

§ 986.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to perform the duties of the Secretary under the act.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq., 61 Stat. 208, 707)

(c) "Person" means any individual, partnership, corporation, association, or any other business unit.

(d) "Hops" means, except as otherwise specifically indicated herein, the pistillate cones, either in the green or the dried state, of the vine Humulus lupulus or Humulus americanus grown in the States of Oregon, California, Washington, or Idaho.

(e) "Hop product" means any substance which is (1) derived, either in whole or in part, from hops, including, but not limited to, any form of lupulin, lupulin sweepings, hop oil, or hop extracts or concentrates, and (2) capable of being used for a purpose for which hops are used.

(f) "Grower" is synonymous with "producer" and means any person who is engaged in the production of hops.

(g) "Dealer" means any person, other than a grower or producer, who handles hops or hop products for his or its own account.

(h) "Grower-dealer" means any grower, other than a brewer, who handles for his or its own account any hops or hop products other than those of his or its own production: *Provided,* That handling transactions pursuant to § 986.6 (f) shall not be within this definition.

(i) "Brewer" means any person who uses hops or any hop product in manufacturing any malt beverage for commercial purposes.

(j) "Handler" means any person who, either personally or through another person, handles hops or any hop product.

(k) "Handle" means (1) to market, ship, or transport (except as a common carrier) to or for market, or for use any hops or hop product, or (2) to purchase, take consignment of, accept delivery of (except as a common carrier) in connection with a purchase or sale or otherwise acquire, within the States of Oregon, California, Washington, or Idaho, hops or any hop product from a grower or any other person, except as provided in § 986.6 (f)

(l) "Consumptive demand" means that quantity of hops and hop products (expressed in terms of dried hops) which it is anticipated will be required in all trade outlets, both domestic and foreign, during the marketing season.

(m) "Marketing season" means the 12 months from August 1 to the following July 31, both dates inclusive.

(n) "Federal-State inspection service" means that inspection service on hops or hop products which is performed within the States of Oregon, California, Washington, or Idaho under a cooperative arrangement between the United States Department of Agriculture and any of such States pursuant to authority contained in any act of Congress.

§ 986.2 *Control Board*—(a) *Establishment.* A Control Board consisting of eighteen members, with an alternate member for each such member, is hereby established to administer the terms and provisions hereof, of whom, with their respective alternates, nine shall represent growers of hops, two shall represent grower-dealers, three shall represent dealers, and four shall represent brewers. The grower members of the Control Board shall be growers of hops who are not grower-dealers, of whom three shall be growers of hops in and residents of the States of Oregon or Idaho, three shall be growers of hops in and residents of the State of California, and three shall be growers of hops in and residents of the State of Washington. One of the grower-dealer members of the Control Board shall be a grower-dealer having his or its principal office in that regard in the States of Oregon, California, Washington, or Idaho, and the other grower-dealer member shall be a grower-dealer having his or its principal office in that regard outside of such States. Each of the four brewer members of the Control Board shall be a brewer. Each of the three dealer members of the Control Board shall be a dealer in hops. An officer, agent, or employee of a business unit other than an individual person shall be eligible for membership or alternate membership on the Control Board in the category in which such business unit belongs pursuant to the provisions hereof. No person shall be selected as a member or alternate member of the Control Board who is not actively engaged, as his principal business occupation, in the business of the group which he represents, and may be an officer, agent, or employee of a business unit engaged in such business.

(b) *Designation of original members and alternates.* The original members of the Control Board, and their respective alternates, shall be selected by the Secretary, subject to the requirements as to district representation, occupation, and residence which are set forth in paragraph (a) of this section, and shall serve for a term ending on March 31, 1950, ex-

cept that, if the respective successor to such original member or alternate member has not been selected and qualified by March 31, 1950, such original member or alternate member shall serve until his respective successor has been selected and has qualified. For the consideration of the Secretary in making such selection, nominations for original members and alternate members of the Control Board may be submitted to him not later than the date on which this order is issued by the Secretary, but may be submitted prior thereto. Nominations for the original nine grower members and their alternates may be made by any grower, or by any association or other group of growers. Nominations for the original two grower-dealer members and their alternates may be made by any grower-dealer, or by any group of grower-dealers. Nominations for the original four brewer members and their alternates may be made by any brewer, or by any organization of brewers. Nominations for the original three dealer members and their alternates may be made by any dealer, or by any group of dealers. However, the Secretary, in making his selection of the original members and their alternates shall not be bound to make such selections from nominations thus received, but he shall make such selections in his discretion.

(e) *Nomination and selection of successor members and alternates* — (1) *General.* Members and alternates of the Control Board selected for terms commencing April 1, 1950, and thereafter, shall serve for terms of two years ending March 31 or until such time thereafter as their successors have been selected and have qualified. Selection of successor members of the Control Board and their alternates shall be made by the Secretary for each of the aforementioned groups from the nominations submitted for that purpose by the respective groups and/or from among other qualified persons. Such nominations for each respective group shall be made to the Secretary on or before March 1 of each election year in the manner hereinafter described.

(2) *Grower members.* Each of the growers Advisory Committees, established pursuant to § 986.4, shall nominate to the Secretary the names of three qualified persons as grower members, and three qualified persons as their alternates, from the State or States represented by the respective committee. The persons receiving in consecutive order the highest number of votes for members shall be the nominees for members of the respective committees, and a corresponding provision shall apply to nominees for alternate members.

(3) *Grower-dealer member Western.* The grower-dealers whose principal offices are within the States of Oregon, California, Washington, or Idaho, shall nominate to the Secretary, by means of an election in which all (and only) such grower-dealers shall be entitled to participate on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular grower-dealer during the next preceding marketing season, one qualified person as the grower-dealer member, and one qualified person as his alternate.

(4) *Grower-dealer member, Eastern.* The grower-dealers whose principal offices are outside the States of Oregon, California, Washington, or Idaho, shall nominate to the Secretary, by means of an election in which all (and only) such grower-dealers shall be entitled to participate on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular grower-dealer during the next preceding marketing season, one qualified person as grower-dealer member, and one qualified person as his alternate.

(5) *Dealer members.* The dealers shall nominate to the Secretary by means of elections in which all (and only) dealers shall be entitled to participate on the basis of one vote for each full bale of hops (including hop products expressed in terms of dried hops) handled by the particular dealer during the next preceding marketing season, three qualified persons as dealer members and three qualified persons as their alternates. Nominations for one of such members and his alternate shall be made by each of the following categories of dealers: (i) Those handling less than 10,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceding marketing season; (ii) those handling between 10,000 and 25,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceeding marketing season; and (iii) those handling over 25,000 bales of hops (including hop products expressed in terms of dried hops) during the next preceding marketing season.

(6) *Brewer members.* Of the four qualified persons to be nominated by the brewers for selection as brewer members of the Control Board, and their respective alternates, two of such nominations for members and their respective alternates may be made to the Secretary by The United States Brewers Foundation, Inc., whose present office address is 21 East Fortieth Street, New York, N. Y., and two such nominations for members, and their respective alternates, may be made by the Small Brewers' Committee, whose present office address is 188 West Randolph Street, Chicago, Ill. However, nominations may also be made by any individual brewer or by any other associations or groups of brewers.

(7) *Elections of nominees for membership.* Each election for the purpose of nominating grower, grower-dealer and dealer members or alternates of the Control Board to succeed those whose terms of office expire on March 31 of any year, shall be held on or before the preceding February 15, and shall be conducted and supervised by the Control Board. Regulations prescribing the method or methods for, and the rules governing the election of nominees as hereinbefore provided, and which shall assure to all persons eligible to take part in such elections reasonable opportunity to select candidates and to vote for nominees, shall be adopted by the Control Board and submitted to the Secretary on or before November 1, 1949; and such regulations as shall be approved by the Secretary shall govern each such election. Reports of the results of elections of nominees shall be submitted to the Secretary by the Control Board.

(8) *Time limitation on nominations.* In the event any of the group nominations are not submitted to the Secretary within twenty days after the time hereinbefore specified, the Secretary may select each such member or alternate without waiting for the nomination or nominations to be made.

(9) *Qualifications of members and alternates.* Each person selected as a member or alternate of the Control Board, including original members and alternates, shall promptly qualify by filing with the Secretary a written acceptance of the appointment. The failure of an appointee to qualify within twenty days after the appointment of such person shall be cause for the Secretary to appoint another person in his stead.

(10) *Qualifications for alternates.* Each alternate shall meet the same qualifications, be nominated and selected in the same manner, and hold office for the same term, as the member for whom he is alternate. An alternate for a member of the Control Board shall, in the event of that member's absence, act in the place and stead of that member; and, in the event of such member's removal, resignation, disqualification, or death, the alternate for such member shall act in the place and stead of said member until a successor for the unexpired term of said member has been selected.

(11) *Substitutes for members or alternates.* In the event any member of the Control Board and his alternate are both unable or fail to attend a meeting of the Control Board, any alternate for any other member of the same group as that represented by the absent member may be designated by the absent member to serve in the stead of the absent member; and in the event such other alternate cannot attend, or there is no such other alternate, then the absent member, or in the event of his disability or a vacancy, his alternate, may designate a temporary substitute to attend such meeting with the power to act in the place and stead of that member, or pending such designation the Secretary may designate such temporary substitute.

(d) *Vacancies.* To fill any vacancy which occurs by reason of the failure of any person, selected as a member of the Control Board or as an alternate member thereof, to qualify, or the death, removal, resignation, or disqualification of any qualified member or alternate member of the Control Board, a successor for his unexpired term of office shall be nominated and selected (insofar as is appropriate) in the manner herein specified, for the nomination and selection of successors to the initial members and alternate members of the Control Board representing the same industry group as was represented by the respective member or alternate member thus to be succeeded. In the event such nomination for vacancy is not made within twenty days after the beginning of the vacancy, the Secretary may select a person to fill such vacancy without waiting for the nomination to be made.

(e) *Compensation.* The members of the Control Board, and their respective alternates, shall serve without compensation, but shall be reimbursed for ex-

penses necessarily incurred in the performance of their duties hereunder.

(f) *Powers.* The Control Board shall have the following powers:

(1) To administer the provisions hereof in accordance with their terms;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(g) *Duties.* The duties of the Control Board shall be, among others, as follows:

(1) *Intermediary.* To act as intermediary between the Secretary and any grower, handler, dealer, grower-dealer, or brewer;

(2) *Minutes, books and records.* To keep minutes, books, and other records which will clearly reflect all of its acts and transactions, and which shall be subject at any time to examination by the Secretary or his designated representative;

(3) *Scientific studies and research.* To provide, subject to prior approval by the Secretary, for the making of scientific and other studies and for the conducting of research appropriate in connection with the performance of its official duties;

(4) *Asembling data.* To gather and assemble data on the growing, handling, shipping and marketing conditions relative to hop and hop products, appropriate or desirable in connection with the performance of its official duties;

(5) *Information.* To furnish to the Secretary, at his request, such information as may be available to the Control Board;

(6) *Audit.* To cause the books and other records of the Control Board to be audited by one or more competent accountants at least once each marketing season and at such times as the Control Board may deem necessary, or as the Secretary may request, and to file with the Secretary a copy of each audit report made:

(7) *Managing agent.* To employ a Managing Agent who, during his employment as such, shall not be a grower, dealer, grower-dealer, or brewer, nor in the employment thereof or financially interested in the production of, dealing in, or use of hops or hop products, and who shall serve as the Secretary of the Control Board and the secretary of the Growers Allocation Committee, and shall have such other duties as are specified for him herein or by the Control Board; and to employ or retain such other employees, agents, and representatives as the Control Board may deem necessary and to determine the salaries and define the duties of such Managing Agent, employees, agents and representatives;

(8) *Notice to Secretary of meetings.* To give to the Secretary, or to his designated representative, the same notice of meetings of the Control Board as is given to the members of the Control Board; and

(9) *Issuance of necessary regulations.* To issue, with the approval of the Secretary, any regulations which are necessary and appropriate for the carrying out of the provisions hereof in accordance with their terms.

(h) *Procedure*—(1) *Rules and officers.* The Control Board shall adopt rules governing the performance of its powers and duties hereunder, and shall select a chairman and such other officers as it may deem advisable.

(2) *Quorum.* A quorum shall consist of twelve members, or alternate members or substitutes then serving in the place and stead of any members, in attendance at the meeting, and all decisions of the Control Board shall be made by not less than ten affirmative votes.

(3) *Permissive methods of voting.* The Control Board may permit voting by mail or telegraph.

(i) *Funds and other property*—(1) *Uses.* All funds received by the Control Board pursuant hereto shall be used solely for the purposes specified herein; and the Secretary may require the Control Board and its members to account for all receipts and disbursements.

(2) *Accountability of members.* Whenever any person ceases to be a member or alternate member of the Control Board, such person shall account for all receipts and disbursements hereunder and deliver all property, funds, books, and other records (in his possession or control) of the Control Board, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all of the property, funds or claims vested in such member.

(3) *Legal action for collection of assessments.* The Control Board, with the approval of the Secretary, may maintain in its own name, or in the names of its members, legal action against any handler for the collection of the assessment imposed upon him pursuant to the provisions hereof.

§ 986.3 *Growers Allocation Committee*—(a) *Members.* The grower-members and the grower-dealer members of the Control Board shall constitute the "Growers Allocation Committee" Said committee shall have such duties and powers as are expressly specified herein for that committee and such other duties and powers as may be incident thereto. The Growers Allocation Committee may incur only such expenses as from time to time are authorized by the Control Board.

(b) *Procedure.* The Growers Allocation Committee shall select one of its members as its chairman and such other officers as it may deem advisable. It shall keep proper records of all its proceedings, and shall adopt regulations governing its procedure. It may provide for voting by mail or telegraph upon due notice to all members.

(c) *Alternates.* The alternate of each grower member or grower-dealer member of the Control Board shall have the same right to serve in lieu of a member of the Growers Allocation Committee as such alternate has to serve in lieu of a member of the Control Board.

§ 986.4 *Growers Advisory Committees*—(a) *Establishment and membership.* A Growers Advisory Committee of twelve members is hereby established for each of the States of Washington and California, and of thirteen members for the combined States of Oregon and Idaho. Each of the said committees shall consist of members who shall be growers or grower-dealers, or officers or employees of growers or grower-dealers, engaged in growing hops in and shall be residents of the State or States for which the respective committee is established; one of the members of the Advisory Committee for the States of Oregon and Idaho shall be a grower, or an officer or employee thereof, engaged in growing hops in and a resident of the State of Idaho.

(b) *Original members.* The original members of the Growers Advisory Committees shall be the members of the existing advisory committees organized by the United States Hop Growers Association, an association of hop growers whose present address is Mills Building, San Francisco, California. Each of the original members shall serve for a term ending on January 31, 1950, and in the event that the respective person's successor has not been selected by February 1, 1950, such person shall serve until his successor has been selected.

(c) *Election of successor members.* Successor members of Growers Advisory Committees, beginning with those elected for terms beginning on and after February 1, 1950, shall serve a two year term ending January 31. Election shall be at meetings held, under the supervision of the Managing Agent or his designated representative, by the growers and grower-dealers in each of the hereafter designated districts. In such election each grower and each grower-dealer residing or producing hops in the district shall have an opportunity to participate, and at such election shall, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives, cast only one vote to fill the vacancy or vacancies occurring in his district. No grower or grower-dealer shall vote in more than one district in any one state. Voting shall be by ballot; there shall be no voting by proxy. The nominee having the highest number of votes shall be the member for the district or, in the districts electing more than one member, the nominees receiving in consecutive order the highest number of votes shall be the members for that district. In the case of a tie vote, where vacancies are insufficient to give membership to each, a runoff election shall be held on the vacancy in question.

(d) *Washington Advisory Committee.* The Advisory Committee for the State of Washington shall delimit that State into four election districts, as follows:

District No. 1. That portion of Yakima County lying east of the Yakima River and north of Parker Ridge, and all counties of the State of Washington not delineated in other districts.

District No. 2: Benton County, Klickitat County, and that portion of Yakima County lying south of Parker and Ahtanum Ridges.

District No. 3: That portion of Yakima County lying north of Ahtanum Ridge and west of the Yakima River.

District No. 4: All counties of the State of Washington lying west of Dis-

tricts 2 and 3, or lying west of the Cascade Mountains.

Growers and grower-dealers who reside or produce hops in any such district shall be entitled to vote for and select for that district three members of the Advisory Committee.

(e) *California Advisory Committee.* The Advisory Committee of the State of California shall delimit that state into three election districts, as follows:

District No. 1. Sacramento County and all other counties of the State of California not delineated in other districts.

District No. 2: Sonoma, Napa and Marin Counties.

District No. 3: Mendocino and Lake Counties.

Growers and grower-dealers who reside or produce hops in any such district shall be entitled to vote for and select for that district four members of the Advisory Committee.

(f) *Oregon-Idaho Advisory Committee.* The Advisory Committee for the States of Oregon and Idaho shall delimit those States into twelve election districts, as follows:

District No. 1 (Grants Pass) Douglas, Jackson and Josephine Counties.

District No. 2 (Eugene, etc.) Lane County and that portion of Linn County not delineated in District 3.

District No. 3 (Albany, Corvallis, etc.) Benton County and those areas of Marion and Linn Counties described as follows: Beginning at Jefferson, Oregon, thence north along Pacific Highway 99 to a point east of Tice Island in the Willamette River, thence due west along an imaginary line to Tice Island, thence south along the meanderings of the Willamette River to the confluence of the Luckiamute and Willamette Rivers, thence due southwest to the northwest corner of Benton County, thence south along the boundary of Benton and Linn Counties to a point due west of Brownsville, Oregon, thence due east along an imaginary line to Brownsville to include all growers operating hop yards in the Brownsville area, thence continuing to the eastern boundary of Linn County to include all growers operating yards in Linn County north of the line as described.

District No. 4 (Independence, Dallas, etc.) All of Polk County not delineated in District 6, all of that portion of Marion County adjacent to Independence and not delineated in Districts 3, 5 and 6, and that portion of Yamhill County not delineated in Districts 10 and 11.

District No. 5 (Silverton, etc.) Beginning at the North Howell Grange in Marion County, Oregon, thence due south along an imaginary line to Stayton, Oregon, thence due east along an imaginary line to the headwaters of the Abiqua River, thence following the meanderings of the Abiqua River in a northwesterly direction to a point due east of the North Howell Grange, thence due west along an imaginary line to point of beginning.

District No. 6 (Salem, etc.) Beginning at Rickreall, Oregon, thence north along west side of Pacific Highway 99W, to a point due west of Wheatland, thence due east along an imaginary line to Wheatland to include all growers in the area in the vicinity of Wheatland, Oregon, thence northeast along an imaginary line to Fairfield, thence east following the Fairfield road to Aral Corners, thence due north from Aral Corners to the St. Louis road to the corner of the "Old Miller Place" thence east to the Southern Pacific Railway and continuing east to the Pacific Highway 99, thence south following the Pacific Highway to the intersection of the Pacific Highway and the Parkersville road, known as the "Manning Corner" thence east to Parkersville, thence south to the Central Howell school, thence due south following an imaginary line to the Santiam River, thence north and west following the meanderings of the Santiam River to Jefferson, thence due north following the Pacific Highway 99 to Sunnyside, thence due west following an imaginary line to the Willamette River to a point south of Roberts' Station, thence north following the meanderings of the Willamette River to Salem, thence west following the Dallas-Salem Highway to Rickreall, point of beginning.

District No. 7 (Wilder, Ontario, etc.) The State of Idaho, Malheur County and all other counties or portions of counties of the State of Oregon not delineated in other districts.

District No. 8 (Mt. Angel, etc.) Beginning at the North Howell Grange, thence south and east following the meanderings of the Abiqua River to the foothills of the Cascade Mountains to a point due south of Molalla, thence due north following an imaginary line to Molalla, thence west following the Woodburn-Molalla highway to its intersection with the Pacific Highway 99, thence south following the Pacific Highway to Gervais, thence south from Gervais to the Manning Corner, thence east to Parkersville, thence south to the North Howell Grange, the place of beginning.

District No. 9 (Donald, Woodburn, Aurora, etc.) Beginning at Oregon City, thence south along the Oregon City-Molalla highway to Molalla to include all growers operating hop yards in the Mulino section, thence north following the Woodburn-Molalla Highway to its intersection with the Pacific Highway 99, thence south following the Pacific Highway to Gervais, thence west following the direct highway to St. Louis, thence north following the meanderings of Champoeg Creek to its confluence with the Willamette River, thence in a northerly direction following the meanderings of the Willamette River to Wilsonville, thence continuing in a north and easterly direction along the meanderings of the Willamette River to the place of beginning.

District No. 10 (St. Paul, etc.) Beginning at Wilsonville, thence north following the Pacific Highway 99W to Jurgens Park on the Tualatin River, thence northeasterly following an imaginary line to the southwest corner of Multnomah County, thence southwesterly following an imaginary line to Laurel, thence southwest following an imaginary line to McMinnville, thence south following the west side Pacific Highway to a point due west of Wheatland, thence due east following an imaginary line to Wheatland, thence northeast to Fairfield, thence continuing east to Aral Corners, thence north to Champoeg Creek, thence continuing in a northerly direction and following the meanderings of Champoeg Creek to the Willamette River, thence continuing in a northeasterly direction following the meanderings of the Willamette River to Wilsonville, the point of beginning.

District No. 11 (Hillsboro, Forest Grove, etc.) Beginning at the southwest corner of Multnomah County, thence in a southwesterly direction following an imaginary line to Laurel, thence southwesterly following an imaginary line to McMinnville, thence west following an imaginary line to the western boundary of Yamhill County.

District No. 12 (Portland, Hermiston, etc.) Umatilla, Morrow, Gilliam, Sherman, Wasco, Hood River and Multomah Counties; and that portion of Clackamas County described as follows: Beginning at Sellwood Oregon, thence south following the meanderings of the Willamette River to Oregon City, thence south following the Oregon City-Molalla Highway to Lewis Station due east of Canby, thence due east along an imaginary line to the Cascade Mountains, thence due north to the northern boundary of Clackamas County, thence due west to place of beginning.

Growers and grower-dealers who reside or produce hops in the district which includes the State of Idaho shall be entitled to vote for and select for that district two members of the Advisory Committee, one of whom shall be a grower of hops in the State of Idaho; and growers and grower-dealers who reside or produce hops in any of the other districts shall be entitled to vote for and select for that district one member of the Advisory Committee.

(g) *Changes in districts.* The number of districts or the area covered by each in any state or states may be changed in any equitable manner upon recommendation of the Control Board or of the Advisory Committee for such state or states, with the approval of the Secretary.

(h) *Alternates.* Each member of an Advisory Committee may designate, in writing addressed to the Managing Agent, an alternate having the same membership qualifications as are applicable to the member. Such alternate may act at any meeting of the Advisory Committee at which the member is not present.

(i) *Vacancies.* A vacancy in the membership of an Advisory Committee shall be filled, for the balance of the term of the member whose place is vacant, by a person of the membership qualifications of the former member, selected by majority vote of the remaining members of that committee.

(j) *Expenses.* The members of each Advisory Committee may be reimbursed by the Control Board for all travel and other expenses necessarily incurred in the performance of their duties.

(k) *Functions*—(1) *Nomination of successor Control Board members.* Each Advisory Committee shall promptly nominate to the Secretary a successor to any grower from that State whose term on the Control Board as a member or alternate shall expire or whose place on the Control Board for any reason may

become vacant. Grower members of an Advisory Committee, as well as other growers, shall be eligible for nomination by that Advisory Committee to serve on the Control Board.

(2) *Officers and other functions.* Each Advisory Committee shall select from its membership a chairman and such other officers as the respective committee may deem advisable, and shall keep proper records of all of its proceedings. It shall hold meetings after notice to its members, upon the call of four members, or upon the call of its chairman, or the Control Board, or the Managing Agent. Each Advisory Committee shall serve the Control Board in an advisory capacity concerning the administration hereof in the State or States for which such committee is established, and in general shall perform such ministerial functions as the Control Board may, from time to time, specify. Each Advisory Committee may incur only such expenses as are authorized by the Control Board.

§ 986.5 *Control of quality*—(a) *Minimum standards of quality and grading and inspection requirements*—(1) *Establishment.* In order to effectuate the declared policy of the act, the Secretary shall, after consideration of the Control Board's recommendations, prescribe minimum standards of quality for hops with respect to their leaf and stem content, or other factors of quality and maturity for which grading and inspection procedure has been developed by the Grain Branch, Production and Marketing Administration, United States Department of Agriculture and is in general use; and shall prescribe grading and inspection requirements therefor. "Leaf and stem content" shall have the meaning for "leaves and stems" as defined in "Instructions and Procedure for the Inspection of Hops" [1] issued by the Grain Branch, in which "extraneous matter" is included in "leaves and stems," and in which it is provided that those hop seeds which are naturally within the hops under inspection shall not be considered as extraneous matter. To aid the Secretary in prescribing minimum standards and requirements, the Control Board shall furnish to the Secretary the information upon which it acted in recommending such standards and requirements, and shall furnish such other available data pertaining thereto as the Secretary shall request.

(2) *Initial standards and requirements.* Until such time as other standards and requirements for leaf and stem content are prescribed under this section, no hops shall be deemed merchantable or entitled to certification which contain over fifteen percent by weight, of leaves and stems as defined in "Instructions and Procedure for the Inspection of Hops" issued by the Grain Branch, Production and Marketing Administration, United States Department of Agriculture, and as determined by the Federal-State Inspection Service.

[1] Copies of such document may be obtained from the Grain Branch, Production and Marketing Administration, United States Department of Agriculture, Washington, D. C., or from its field office at 345 U. S. Courthouse, Portland, Oreg.

(3) *Operation irrespective of price.* The provisions hereof relating to minimum standards of quality and maturity, and to grading and inspection requirements, within the meaning of section 2 (3) of the act, and any other provisions pertaining to the administration and enforcement thereof, shall continue in effect irrespective of whether the season average price for hops is in excess of the parity level specified in section 2 (1) of the act.

(b) *Inspection and certification.* Each grower shall be entitled, upon application to the Control Board or its representative, and subject to the meeting by him of any applicable provisions of § 986.5 and § 986.6, to the certification of hops harvested after the effective date hereof. *Provided,* That such hops have been inspected by the Federal-State Inspection Service within the States of Oregon, California, Washington, or Idaho, and their official certificate presented by such grower showing such hops to meet said standards and requirements. No person shall handle any hops harvested after the effective date hereof unless such hops have been so certificated by the Control Board.

(c) *Regulations.* Such certification as to minimum quality shall be based on information on a Federal-State Inspection Certificate and shall include substantially the following wording: "Hops or hop products covered by this certificate are of the ____ crop and are covered (year) by Federal-State Inspection Certificate No. _____ as meeting minimum standards of quality prescribed pursuant to applicable Federal-Marketing Agreement and Order." Such certification shall be executed by authorized representatives of the Control Board, the grower and the handler. The bale or other container shall also be marked or tagged to furnish proper identification as to producer and lot.

§ 986.6 *Control of surplus*—(a) *Application.* The provisions of this section shall apply only during marketing seasons in which the estimated season average price of hops to growers is below the parity level specified in section 2 (1) of the act.

(b) *Determination of salable quantity*—(1) *Total carryover* As early in the respective year as it shall find it to be feasible, but not later than August 1, the Control Board shall ascertain or estimate the total carryover, within the United States, of hops and hop products expressed in terms of dry hops, produced in or outside the area covered hereby prior to that year and which, if produced within such area, are eligible for handling pursuant to the terms hereof.

(2) *Consumptive demand.* At the same time, the Control Board shall estimate the total consumptive demand for hops produced during the respective year. In estimating such consumptive demand, there shall be included the quantity of such hops estimated to be used as hops and the quantity estimated to be used in the form of hop products.

(3) *Recommendation by Control Board.* Immediately thereafter, and based upon its aforesaid estimates and findings, the Control Board shall make and transmit to the Secretary its recommendation of the maximum quantity of hops (net dry weight), produced during that respective year which should, in order to effectuate the declared policy of the act, be handled in the form of hops or in the form of any hop product, and, with such recommendation, shall transmit to the Secretary its estimates and findings on which its recommendation is based.

(4) *Determination by Secretary of salable quantity.* On the basis of the aforesaid estimates, data, and recommendations of the Control Board submitted pursuant to § 986.6 (b), and such other pertinent information as the Secretary may have, the Secretary shall determine, fix, and announce such maximum quantity of hops produced during that respective year which may be handled in the form of hops or in the form of any hop product. Such maximum quantity of hops which shall be fixed by the Secretary as aforesaid shall be known, and is referred to hereinafter, as the salable quantity of that respective year's crop of hops.

(5) *Increase of salable quantity.* The Secretary may at any time increase the salable quantity for the crop of any year in which the continued withholding of surplus would result in a season average price to growers in excess of the parity level specified in section 2 (1) of the act, or upon due consideration of either the needs of brewers or a recommendation of the Control Board that the salable quantity be increased. The Secretary may not decrease said salable quantity.

(6) *Conversion ratios.* In computing the hops equivalent of hop products, and unless changed as hereinafter provided, one pound of lupulin shall be considered equivalent to 20 pounds of dry hops and one pound of hop oil to 400 pounds of dry hops. In the case of hop extracts or concentrates for which conversion ratios are not established pursuant hereto, the Control Board, or its authorized representative may specify the conversion ratio to be used until such ratio can be established pursuant to the provisions hereof. Said conversion factors may be changed by regulation of the Control Board, subject to approval of the Secretary.

(c) *Apportionment of salable quantity among growers*—(1) *Determination of quantity available for market*—(i) *Determination by Growers Allocation Committee.* As the basis for apportioning equitably among growers the salable quantity of each year's crop, the Growers Allocation Committee each year as early as practicable during or after harvest, shall determine, or cause to be determined under its supervision, the total quantity of hops (net dry weight) meeting the requirements of § 986.5, available for market by each grower from his production of hops during that year. Such determination shall include the quantity, if any, of such hops found to have been converted into hop products, except lupulin sweepings shall be included, in the computation, only to the extent of the pounds of lupulin found to be in such quantity of lupulin sweepings. Unharvested hops shall be included only if grown to maturity and remaining unharvested on living vines which remain

strung or trained and from which hops have not been picked, and which have not been removed from the wires or poles. In the event any grower does not permit the Growers Allocation Committee, or its representatives, access to any hops grown by that grower, or to any product thereof, or shall fail or refuse to make available to said committee, or its representatives, information relative to such hops or hop products which the Growers Allocation Committee finds to be desirable in order properly to make such determination in accordance with the provisions hereof, the Growers Allocation Committee shall determine or cause to be determined, on the basis of an estimate of the grower's acreage, the average crop conditions in the area, and the probable yield per acre on the grower's acreage, the respective grower's total production as aforesaid. After completing its determination of production by each individual grower, the Growers Allocation Committee shall, by means of addition, compute the production by all growers.

(ii) *Preliminary estimates.* The Growers Allocation Committee each year, prior to the start of harvest, or as soon thereafter as practicable, shall determine, or cause to be determined under its supervision, a preliminary estimate of said total quantity of hops which will become available for market by each such grower and by all growers, during that year. Said preliminary estimate shall be based upon physical examination of the hop yards, upon the historical production thereof, upon official crop estimates or upon such other relevant data as is available.

(iii) *Determinations for and protests by members of committee.* The determinations pursuant to § 986.6 (c) (1) (i) and § 986.6 (c) (1) (ii) for each member or alternate member of the Growers Allocation Committee shall not be made by any member or alternate member of such committee, but shall be made, and reported in writing to the Secretary and to the Growers Allocation Committee, by such other qualified person or persons as the Control Board or its authorized representative shall designate for that purpose. Any protest by a member or alternate member of the Growers Allocation Committee concerning such determination shall be made directly to, and be determined by, the Secretary.

(iv) *Notice to growers.* The Growers Allocation Committee shall cause to be mailed to each grower notice of the determination pursuant to § 986.6 (c) (1) (i) and § 986.6 (c) (1) (ii) of the respective grower's production for the respective year, and also, the computation of the total quantity determined pursuant to § 986.6 (c) (1) (i) and § 986.6 (c) (1) (ii) respectively, produced by all growers during that year. The committee shall also publicly announce said computations of said total quantity, both estimated and final.

(v) *Protests by growers.* Any grower who may be dissatisfied with the determinations pursuant to § 986.6 (c) (1) (i) or § 986.6 (c) (1) (ii) or pursuant to § 986.6 (c) (2), may protest in writing to the Growers Allocation Committee within ten (10) days of the date of mailing of the notice and if dissatisfied with the decision in regard to such protest may appeal in writing to the Secretary.

(vi) *Determination by Secretary.* Upon expiration of the time for protest specified in § 986.6 (c) (1) (v), and after completion of action by that committee upon all protests, the Growers Allocation Committee shall report to the Secretary all findings, determinations, and computations made by or for it pursuant to § 986.6 (c) (1) (i), together with the data on which the same were based. On the basis of such findings, determinations, computations, data, and other pertinent information which the Secretary may have, the Secretary shall determine and notify the Growers Allocation Committee of the total quantity of hops (net dry weight) meeting the requirements of § 986.5 available for market by each grower from his production of hops during that year: *Provided,* That such determinations shall include the quantity, if any, of such hops converted into hop products except that insofar as lupulin sweepings are concerned there shall be included, in the computation, only the pounds of lupulin in such quantity of lupulin sweepings, and insofar as unharvested hops are concerned, shall include (net dry weight) only hops of that respective year's crop grown to maturity and remaining unharvested on the living vines. The Secretary, after having determined each grower's production, as aforesaid, shall, by means of addition, determine the production by all growers; such production by all growers is hereinafter referred to as the "aggregate production" for that respective year. Immediately upon receipt of notice thereof from the Secretary, the Growers Allocation Committee shall publicly announce the aforesaid determination by the Secretary.

(2) *Computation of growers' allotments*—(i) *Salable percentage.* The "salable percentage" of the aggregate production, determined pursuant to § 986.6 (c) (1) shall be computed by dividing the salable quantity of that year's crop, determined pursuant to § 986.6 (b), by the aforesaid aggregate production, and multiplying the quotient by 100. After computing the growers' salable percentage on this basis, the percentage shall be adjusted to the nearest tenth of a percent. Each grower's allotment of the salable quantity of that year's crop shall be that same salable percentage applied to that grower's production as determined pursuant to § 986.6 (c) (1) *Provided, however,* That in any year in which the salable percentage, determined pursuant to this section, exceeds ninety-eight percent, each grower's allotment shall be the total quantity, produced by such grower, determined pursuant to § 986.6 (c) (1). Each allotment determined hereunder shall be expressed in pounds, net dry weight, of hops and shall be known as the respective grower's "salable allotment" of that respective year's crop.

(ii) *Preliminary and supplementary allotments*—(a) *Preliminary.* In order to assist growers to avoid delays in their individual harvesting and marketing, the Control Board shall compute an "estimated salable percentage" of estimated aggregate production and shall compute for each grower a preliminary allotment. The estimated salable percentage shall be computed by dividing the salable quantity of that year's crop, determined pursuant to § 986.6 (b) by the estimated aggregate production, as determined pursuant to § 986.6 (c) (1) (ii) and multiplying the quotient by 100. Each grower's preliminary allotment of the salable quantity of that year's crop shall be fifty percent (50%) or such lower percentage as the Control Board may establish with the approval of the Secretary, of that same estimated salable percentage applied to that grower's estimated production as determined pursuant to § 986.6 (c) (1) (ii)

(b) *Supplementary.* The Control Board shall each year issue or cause to be issued, prior to the issuance of final allotments applicable to that year's crop, to any grower who may apply therefor to the Growers Allocation Committee, a supplementary allotment representing such proportion of that grower's total production of hops during that year as the Growers Allocation Committee shall determine will not be in excess of eighty percent (or such higher percentage as the Control Board, with the approval of the Secretary, may specify for the computation of supplementary allotments) of that grower's probable salable allotment for that year's crop.

(c) *Eligibility for certification.* After issuance to a grower of such preliminary or supplemental allotment, the hops covered thereby, and any hop product derived from such hops, shall be eligible for certification, marking, and handling as though the final allotment had been issued, and subject to the same terms, conditions, and regulations as are applicable to such certification, marking, and handling of hops and hop products under a final salable allotment.

(iii) *Notice to growers.* The Growers Allocation Committee shall mail to each grower notice of his preliminary, of his supplementary and of his final salable allotment computed by that committee as herein provided. A list of the salable allotments of all growers for each year's crop shall be compiled and maintained by the Growers Allocation Committee at each of its officers, where the same shall be available during all reasonable hours for inspection by any interested person.

(3) *Joint allotment*—(i) *Joint ownership.* In the event that more than one grower shall participate jointly in the production of hops, whether as landlord and tenant, as partners, or otherwise, and said growers report that fact to the Growers Allocation Committee, then a single salable allotment shall cover such joint production. In the event that thereafter the interests of those growers in the crop produced or being produced are segregated, the Growers Allocation Committee, upon written application signed by all of said interested growers shall segregate and distribute said salable allotment among said growers in accordance with their respective segregated interests in the crop.

(ii) *Associations.* Upon application of any bona fide incorporated cooperative

association of growers which is authorized to market hops or hop products included within the salable allotments those of its members who have authorized the Association to sell hops for them, the individual salable allotments shall be pooled and thereafter hops produced by those members of that association during that year, and hop products derived from such hops, may be certificated and handled by that association without regard to the limits of the individual allotments of the members. Any application for such pooling shall be made in writing signed by the duly authorized officers of such association, and shall be accompanied by proper evidence of approval of such application by the membership of the association, and shall be accompanied by proper evidence of approval of such application by the membership of the association, by official action at a membership meeting or otherwise during the calendar year in which the application is made. Such application shall be filed with the Growers Allocation Committee prior to determination of the salable allotments to which it is to apply.

(4) *Revision of allotments*—(i) *Revisions and new allotments.* In the event that at the normal time, no determination, pursuant to § 986.6 (c) (1), has been made as to a particular grower entitled thereto pursuant to the provisions hereof, or a previous determination as to a particular grower is substantially in error, the Growers Allocation Committee shall make the determination or correct the erroneous determination. The same requirements of determination and approval by the Secretary, notice to the grower and rights of protest and appeal, shall be effective with respect to such determination, as in the case of a timely or original determination.

(ii) *Correction of clerical errors.* In the event that the Growers Allocation Committee or the Control Board shall find, at any time, that the salable allotment previously issued to a grower was incorrectly computed or is erroneous by reason of mathematical or clerical error, the Growers Allocation Committee or the Control Board shall correct and revise said allotment to the extent found to be proper, and shall notify the respective grower and the Secretary of such correction.

(d) *Certification*—(1) *Hops harvested during effective period of order* Each grower for whom a salable quantity is determined may, upon application to the Control Board or its representative and subject to the limitations of § 986.5, have the eligible quantity of hops or hop products certified for handling. Such certification shall consist of the indelible marking of each bale or other container of such hops or hop products by an authorized representative of the Control Board and the issuance and delivery of a "handling certificate." Such marking shall be placed on the bale cover or other container or on a tag securely attached to such other container, and shall show the year of production, the handling certificate number, and the words "Certificated, Hop Control Board." This method of marking may be changed by the Control Board, subject to the approval of the Secretary. Such handling certificate shall certify that pursuant to the provisions hereof a specified quantity of hops or hop products has been duly certificated, for the grower and handler named in said certificate, as being eligible for handling pursuant to the terms hereof. Such certification may exceed any grower's salable quantity by not over 100 pounds, provided such excess quantity is included entirely within the weight of the last bale or container certificated for said quantity.

(2) *Hops harvested prior to effective date of order* Any person who owns or is in the possession of, hops harvested or hop products from hops harvested prior to the effective date of this order, is entitled upon application, within 30 days after the effective date hereof, to the Control Board or its representatives, to have such hops or hop products certificated free of charge without regard to any salable quantity. The Control Board may extend such time for good cause.

(e) *Limitation of handling to certificated hops or hop products.* No person, as principal, agent, broker, legal representative, or otherwise, shall handle any hops harvested or hop products from hops harvested subsequent to the effective date hereof, unless: (1) Prior to such handling, the Control Board shall have issued a "handling certificate" pursuant to § 986.6 (d) applicable to such hops or hop products; (2) each bale or other container of said hops or hop products shall have been duly marked or tagged as prescribed herein, for the purpose of identifying such hops or hop products as being covered by a duly issued salable allotment or as being properly certificated. However, hops harvested prior to the effective date hereof and hop products produced from such hops may be certificated for handling without regard to the salable allotment or the quality restriction.

(f) *Diversion privileges.* In the event hops produced subsequent to the effective date hereof, whether harvested or unharvested, in the control of the respective grower thereof, are destroyed, or are so damaged or deteriorated as in the judgment of the grower to be unmarketable, or if because of quality or type such hops are unsatisfactory to the grower, the grower thereof may, if the lupulin has not been removed from such hops, replace such hops, within the limits of his salable allotment for that respective years, by acquiring uncertificated hops of that year's crop from the growers thereof: *Provided,* That such purchasing grower shall first submit a written statement to the Growers Allocation Committee setting forth the year of production, location, and the quantity of hops which such grower desires so to replace (and, if the hops to be replaced have been destroyed, the time, place, and cause of such destruction, together with proof of such destruction satisfactory to the Growers Allocation Committee, and the name and address of each grower from whom he proposes to acquire uncertificated hops for that purpose, and makes arrangements with the Growers Allocation Committee whereby the unmarketable or unsatisfactory hops which are thus to be replaced will be effectively diverted from or disposed of out of the normal channels of trade, and such disposal or diversion shall be in such manner as may be prescribed by the Control Board: *And provided further,* That such hops shall not be diverted or disposed of into hop products, as defined in § 986.1 (e) The selling grower as herein defined shall not be regarded as handling hops within the meaning of this order nor shall the hops sold be considered a part of the selling growers' salable allotment. The Growers Allocation Committee shall prepare, and from time to time shall revise, a list of the names and addresses of growers known to have uncertificated hops for sale pursuant to the provisions of this paragraph; and a list of the names and addresses of growers who report to the Growers Allocation Committee that they desire to purchase or acquire uncertificated hops pursuant to this paragraph. The Growers Allocation Committee shall make such lists available to any grower of hops at each office of the Control Board.

§ 986.7 *Expenses and assessments*—(a) *Expenses.* The Control Board (including, but not limited to, the Growers Allocation Committee and the several Growers Advisory Committees) is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred by it during each marketing season for the maintenance and functioning by it and for such purposes as the Secretary may, pursuant to the provisions hereof, determine to be appropriate. The recommendation of the Control Board as to its expenses for each such marketing season, together with all data supporting such recommendation, shall be submitted to the Secretary within 45 days from the effective date hereof and in succeeding marketing seasons on or before September 15 of the marketing season for which such recommendation is made. The funds to cover such assessments shall be acquired by levying assessments as hereinafter provided.

(b) *Assessments*—(1) *Requirement for payment.* Each handler shall pay to the Control Board the assessment provided hereinafter with respect to all hops and hop products which are handler or to be handled by that handler as the first handler thereof, except (i) such hops or hop products as are duly certificated pursuant to § 986.6 (d) (2), and (ii) such hop products as have been derived from duly certificated hops with respect to which such assessment previously had been paid: *Provided, however* That any grower who markets or transports to market within the state of production hops produced by that grower, or any hop product produced by that grower from hops produced by that grower, shall not be deemed to be the first handler thereof insofar only as payment of assessments pursuant to the provisions of this paragraph may be concerned. Said assessment shall be paid to the Control Board prior to or at the time of such handling, or at such subsequent time as the Control Board may specify.

(2) *Rate of assessment.* Beginning with the effective date hereof, the aforesaid assessment shall be at the rate of

one-fourth of one cent per pound, net dry weight, of hops handled, and said rate shall continue in effect until changed by the Control Board with the approval of the Secretary and the assessment rate on any hop product shall be based upon the assessment rate for hops, and shall be computed at such conversion ratio or ratios between hops and the respective hop product as determined pursuant to § 986.6 (b) (6) *Provided, however* That the Secretary shall not approve any assessment rate for hops exceeding three-fifths of one cent per pound unless he shall have held, prior thereto and subsequent to such notice as he may deem proper, a meeting or meetings within the production area covered hereby for the specific purpose of obtaining information with respect to such assessment rate. The Secretary shall reduce the assessment rate if the Secretary finds that the assessment rate when thus reduced will provide an amount of money sufficient to enable the Control Board and other committees properly to perform their respective functions hereunder. Any increase in the assessment rate shall not apply retroactively to hops produced in a previous marketing season. A grower who pursuant to § 986.6 (f) acquires uncertificated hops from the grower thereof shall not, by reason of each acquisition, or the marketing or transportation of said hops within the State of production, be deemed to be the first handler of those hops within the provisions of this paragraph. In the event any grower who handles hops or any hop product is not covered by this section as the first handler thereof, then the person who handles any of such hops or any hop product next following such handling thereof by said grower shall constitute the first handler thereof within the provisions of this section.

(c) *Liquidation of net assets.* Upon the termination hereof the net assets of the Control Board shall be liquidated and disbursed pursuant to § 986.12.

(d) *Funds to be used to pay expenses.* From the funds acquired pursuant to this section, the Control Board shall pay the salaries of the employees, agents, and representatives thereof; and, also, pay the other expenses necessarily incurred in the performance of the functions or duties or exercise of the powers of the Control Board, Growers Allocation Committee, and Advisory Committees respectively.

§ 986.8 *Compliance.* Each handler shall comply strictly with all provisions hereof and all regulations duly effective hereunder. No handler shall handle any hops or any hop product in violation of any of the provisions hereof or in violation of any regulation effective pursuant hereto.

§986.9 *Reports, books, and records*—(a) *Books and records.* Each handler and each subsidiary or affiliate thereof shall keep books and other records which will clearly show the details of its handling of hops and hop products.

(b) *Reports by handlers.* To enable the Control Board, the Growers Allocation Committee, and each Advisory Committee to perform its functions hereunder, each handler shall furnish to the Managing Agent complete information on June 1, or as of that date and within 15 days thereafter, or on any other date or dates which the Control Board, with the approval of the Secretary, may specify, relating to (1) The volume of and the price paid for hops and hop products handled during the next preceding marketing season, and the volume of and prices to be paid for hops and hop products of future crops by the respective handlers (2) the names and addresses of the growers and other persons from whom hops or hop products were acquired; (3) quantities of hops grown by that handler; and (4) the total quantity of hops and hop products owned by the respective handler. Such information furnished to the Managing Agent shall be confidential and shall not be disclosed to any person (including members of the Control Board as well as other persons) except to the Secretary at his request, or to such person as the Secretary may specify: *Provided,* That the Managing Agent may compile such information in such form as will not reveal the identity of individual informants and may make such compilations available to the Control Board, Growers Allocation Committee, any Advisory Committee, or to the public. The Managing Agent shall not disclose any information acquired under this section, except as herein expressly authorized.

§ 986.10 *Amendments.* Amendment hereof may from time to time be proposed by the Control Board or by the Secretary.

§ 986.11 *Agents.* The Secretary may, by a designation in writing, name any person, including but not being limited to, any officer or employee of the United States Department of Agriculture, or any Division thereof, to act as his agent or representative in connection with any of the provisions hereof.

§ 986.12 *Effective time and termination*—(a) *Effective time.* The provisions hereof, or of any amendment hereto, shall become effective at such time as the Secretary may declare, and shall continue in force unless terminated in one of the ways hereinafter specified, so long as the provisions of the act authorizing the same are in effect.

(b) *Termination.* (1) The Secretary may, at any time, terminate the provisions hereof whenever he finds that the provisions hereof obstruct or do not tend to effectuate the declared policy of the act; and such notice of the termination shall be given as the Secretary deems proper.

(2) The Secretary shall terminate the provisions hereof whenever he finds that such termination is favored by the majority of the growers of hops who, during such representative period as may be determined by the Secretary, have been engaged in the production of hops within said states for market: *Provided,* That such majority have, during such period, produced for market more than fifty percent of the total volume of hops produced for market in said area during such period. Such termination shall become and be effective on and after the first day of July subsequent to the announcement thereof by the Secretary.

(3) The provisions hereof shall terminate in any event whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* Upon the termination of the provisions hereof, the members of the Control Board then functioning shall continue as trustees (for the purpose of liquidating the affairs of said Control Board) of all funds and property then in the possession or under the control of the Control Board, including but not being limited to claims for any funds unpaid or property not delivered at the time of such termination; but the procedural rules governing the activities of said trustees; including, but not limited to, the determination as to whether action may be taken by only a majority vote of the trustees, shall be prescribed by the Secretary. Said trustees shall continue in such capacity until discharged by the Secretary, and from time to time shall account for all receipts and disbursements, and deliver all funds and property on hand, together with all books and records of the Control Board and the trustees, to such person as the Secretary may direct, and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person the right to all of the funds or claims vested in the Control Board or the trustees pursuant hereto. Any funds collected for expenses pursuant to § 986.7 and held by such trustees or such person over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the trustees or such other person, in the performance of their duties hereunder, shall, as soon as practicable after the termination of the provisions hereof, be disbursed among the handlers pro rata in proportion to their contributions pursuant hereto. Any person to whom funds, property, or claims have been delivered by the Control Board or its members, upon direction of the Secretary as herein provided, shall be subject to the same obligations and duties with respect to said funds, property, or claims as are hereinabove imposed upon the members of said Board or upon said trustees.

§ 936.13 *Duration of immunities.* The benefits, privileges, and immunities conferred by virtue hereof shall cease upon termination hereof except with respect to acts done under and during the existence hereof; and the benefits, privileges, and immunities conferred hereby upon any party signatory hereto shall cease upon the termination hereof as to such party except with respect to acts done under and during the existence hereof.

§ 986.14 *Separability.* If any provision hereof is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 986.15 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 986.16 *Right of the Secretary.* Each member of the Control Board, Growers Allocation Committee, and Growers Advisory Committee, including successors and alternates, and any agent, representative or employee appointed or employed by the Control Board, shall be subject to removal or suspension by the Secretary at any time. Each regulation, decision, determination, or other act of the Control Board, Growers Allocation Committee, or any Growers Advisory Committee, shall be subject to the continuing right of the Secretary to disapprove of the same at any time and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 986.17 *Liability of Control Board Members.* No member of the Control Board, Growers Allocation Committee, or any Advisory Committee, nor any agent, representative, or employee, shall be held liable individually in any way whatsoever to any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member, employee, representative, except for acts of dishonesty. The liability of the parties hereunder is several and not joint, and no party shall be liable for the default of any other party.

§ 986.18 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen prior thereto, or (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any right or remedy of the United States, or of the Secretary, or of any other person with respect to any such violation.

§ 986.19 *Counterparts.*[1] This agreement may be executed in multiple counterparts, and, when one counterpart is signed by the Secretary, all such counterparts shall constitute when taken together one and the same instrument as if all such signatures were contained in one original.

§ 986.20 *Additional parties.*[1] After this agreement first takes effect, any handler or dealer may become a party to this agreement if a counterpart thereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ 986.21 *Request for order.*[1] Each signatory handler and dealer hereto requests the Secretary to issue an order pursuant to the act regulating the handling of hops and hop products in the same manner as provided in this agreement.

Copies of this notice of hearing may be obtained from or inspected, prior to the hearing, at any of the following offices of the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture: Eastern Building, 515 Southwest 10th Avenue, Portland, Oreg., Farm Credit Building, 2180 Milvia Street, Berkeley, Calif., and 100 Plaza Building, 921 Tenth Street, Sacramento, Calif. Copies may also be obtained from or inspected at the offices of the United States Hop Growers Association, at 818 Mills Building, San Francisco, Calif., and at 710 First National Bank Building, Salem, Oreg., as well as at offices of the County Agricultural Conservation Associations in commercial hop producing counties in California, Oregon, Washington, and Idaho. In addition copies may be obtained from or inspected at the office of the Hearing Clerk, United States Department of Agriculture, Room 1846, South Building, Washington, D. C., and in the Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Room 2525, South Building, Washington, D. C.

Dated this 29th day of October 1948 at Washington, D. C.

[SEAL] JOHN I. THOMPSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 48-9630; Filed, Nov. 1, 1948; 9:00 a. m.]

[1] In witness hereof the contracting parties acting under the provisions of the act for the purposes and subject to the limitations herein contained and not otherwise have hereunto set their respective hands and seals.

FEDERAL SECURITY AGENCY

Food and Drug Administration

[21 CFR, Part 15]

[Docket No. FDC 21 (c)]

WHEAT FLOUR AND RELATED PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

NOTICE OF PROPOSED RULE MAKING

It is proposed that, by virtue of the authority vested in the Federal Security Administrator by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371), and upon the basis of substantial evidence received at the public hearing held pursuant to the notice published in the FEDERAL REGISTER on August 26, 1948 (13 F. R. 4964) the following order be made:

Finding of fact.[1a] By order published in the FEDERAL REGISTER May 27, 1941 (6 F. R. 2579; 21 CFR, Cum. Supp. 15.00, 15.10, 15.20, 15.30, 15.50, 15.60, 15.70, 15.80, 15.90, and 15.100, as amended in 13 F. R. 4231), the standards of identity for flour, enriched flour, bromated flour, enriched bromated flour, self-rising flour, enriched self-rising flour, phosphated flour, whole wheat flour, bromated whole wheat flour, and whole durum wheat flour provided for the use of nitrogen trichloride as an optional bleaching ingredient, under prescribed conditions.

2. Since the promulgation of these standards it has been found that flour treated with nitrogen trichloride has caused in dogs certain toxic manifestations known as canine hysteria. Experiments by qualified investigators have shown that flour treated with large quantities of nitrogen trichloride is toxic to some animals in addition to dogs. Although the experimental work on humans is limited, no adverse effect as a result of foods prepared from flours treated with nitrogen trichloride has been found. (R. 13–16, 37–39, 41–44, 47–48, 63, 70–71, 83–86, 90, 103–105, 107–109, 112–115, 130–136, 160–161, 165–167, 208–210, 217–218, 283–290, 297–298, 323–327, 350–376, 479; Ex. 2, 3, 5, 10, 16, 18)

3. Chlorine dioxide has a bleaching and artificial aging effect on flour similar to that of nitrogen trichloride. The mechanism of its action has not been established, but it appears that the chlorine dioxide releases oxygen when in contact with flour and that the oxygen is the bleaching agent. Experiments by qualified investigators have shown that flours treated with chlorine dioxide, or products baked from flours treated with chlorine dioxide, do not cause canine hysteria, and no symptoms of any toxicity have been detected in the several other species, including man, that have been studied. (R. 44–48, 53–64, 67–82, 86–90, 92, 110–111, 118–125, 130–136, 139–143, 152, 153, 157–160, 165–175, 177–183, 199, 207–222, 231, 235–236, 238–240, 243–244, 246, 248, 250–252, 255, 257–258, 261, 267–272, 283–285, 290–291, 299–301, 350–376, 386–392, 398, 405–410, 430–436, 482; Ex. 6, 10, 11, 13, 14, 15, 16, 18, 20, 21, 23)

4. Only enough chlorine dioxide is used to accomplish the purposes of bleaching and artificial aging, as excessive quantities impair the baking quality of the flour. (R. 235–240, 242–244, 247–250, 254, 379–384, 387–394, 397–398, 405–410; Ex. 14, 19, 20, 21)

5. When used under the controls now prescribed for bleaching and artificially aging flour, chlorine dioxide is suitable for the purpose of bleaching and artificially aging flour, enriched flour, bromated flour, enriched bromated flour, self-rising flour, enriched self-rising flour, phosphated flour, whole wheat flour, bromated whole wheat flour, and whole durum wheat flour. (R. 195–198, 200, 254–257, 267–277, 386–398, 420–427; Ex. 22)

6. In addition to the carriers or diluents prescribed for use with the optional bleaching ingredient benzoyl peroxide, it has been found that other substances or mixtures of these substances with each other or with those now prescribed are also suitable for such use. Such substances are dicalcium phosphate, tricalcium phosphate, starch, sodium alumi-

[1a] The citations following each finding of fact refer to the pages of the transcript of the testimony and the exhibits received in evidence at the hearing.

num sulfate, and calcium carbonate. The total amount of the diluent or carrier used should not exceed six parts by weight for one part by weight of benzoyl peroxide. (R. 496–500, 503–505, 524–525, 527–531, 535, 537, 548, 554, 558)

7. Consumers generally recognize that the word "bleached" when applied to flour distinguishes between bleached and unbleached flour. The term "bleached" describes the ingredient or ingredients added to flour through the bleaching process, including chlorine dioxide, or products resulting from the use of chlorine dioxide, and benzoyl peroxide with its carriers. (R. 232–233, 277, 396–400, 412–413, 484–485, 496–497, 514)

Conclusions. Upon consideration of the whole record and the foregoing findings of fact, it is concluded that it will promote honesty and fair dealing in the interest of consumers to amend the definitions and standards of identity for flour (§ 15.00) enriched flour (§ 15.10), bromated flour (§ 15.20) enriched bromated flour (§ 15.30) self-rising flour (§ 15.50) enriched self-rising flour (§ 15.60) and phosphated flour (§ 15.70) by deleting nitrogen trichloride as an optional ingredient and substituting therefor chlorine dioxide, and by amending the requirements as to the ingredients which may be used with benzoyl peroxide as indicated in finding 6; and to amend the definitions and standards of identity for whole wheat flour (§ 15.80) bromated whole wheat flour (§ 15.90) and whole durum wheat flour (§ 15.100) by deleting nitrogen trichloride as an optional ingredient and substituting therefor chlorine dioxide.

It is therefore proposed that the amendments be made so that the definitions and standards of identity read as follows:

§ 15.00 *Flour white flour wheat flour plain flour identity; label statement of optional ingredients.* (a) Flour, white flour, wheat flour, plain flour, is the food prepared by grinding and bolting cleaned wheat other than durum wheat and red durum wheat; to compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted barley flour so used is not more than 0.25 percent. One of the cloths through which the flour is bolted has openings not larger than those of woven wire cloth designated "149 micron (No. 100)" in table I of "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. The flour is freed from bran coat, or bran coat and germ, to such extent that the percent of ash therein, calculated to a moisture-free basis is not more than the sum of 1/20 of the percent of protein therein, calculated to a moisture-free basis, and 0.35. Its moisture content is not more than 15 percent. Unless such addition conceals damage or inferiority of the flour or makes it appear better or of greater value than it is, one or any combination of two or more of the following optional bleaching ingredients may be added in a quantity not more than sufficient for bleaching or, in case such ingredient has an artificial aging effect, in a quantity not more than sufficient for bleaching and such artificial aging effect:

(1) Oxides of nitrogen.
(2) Chlorine.
(3) Nitrosyl chloride.
(4) Chlorine dioxide.[2]
(5) One part by weight of benzoyl peroxide mixed with not more than six parts by weight of one or any mixture of two or more of the following: potassium alum, calcium sulfate, magnesium carbonate, sodium aluminum sulfate, dicalcium phosphate, tricalcium phosphate, starch, calcium carbonate.

(b) When any optional bleaching ingredient is used, the label shall bear the word "Bleached." Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trade-mark or brand, other written, printed, or graphic matter, which is also a part of such trade-mark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trade-mark or brand as to be conspicuously related to such name.

(c) For the purposes of this section: (1) Ash is determined by the method prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Edition, 1940, page 212, under "Method I—Official."[3] Ash is calculated to a moisture-free basis by subtracting the percent of moisture in the flour from 100, dividing the remainder into the percent of ash, and multiplying the quotient by 100.

(2) Protein is 5.7 times the nitrogen as determined by the method prescribed in such book on page 26, under "Kjeldahl-Gunning-Arnold Method — Official."[4] Protein is calculated to a moisture-free basis by subtracting the percent of moisture in the flour from 100, dividing the remainder into the persent of protein, and multiplying the quotient by 100.

(3) Moisture is determined by the method prescribed in such book on page 211, under "Vacuum Oven Method—Official."[5]

§ 15.10 *Enriched flour.* (No change in wording is necessary since the bleaching ingredients are fixed by § 15.00.)

§ 15.20 *Bromated flour.* (No change in wording is necessary since the bleaching ingredients are fixed by § 15.00.)

§ 15.30 *Enriched bromated flour.* (No change in wording is necessary since the bleaching ingredients are fixed by § 15.00.)

§ 15.50 *Self-rising flour* (No change in wording is necessary since the bleaching ingredients are fixed by § 15.00.)

§ 15.60 *Enriched self-rising flour.* (No change in wording is necessary since the bleaching ingredients are fixed by § 15.00.)

§ 15.70 *Phosphated flour.* (No change in wording is necessary since the bleaching ingredients are fixed by § 15.00.)

§ 15.80 *Whole wheat flour, graham flour, entire wheat flour identity; label statement of optional ingredients.* (a) Whole wheat flour, graham flour, entire wheat flour, is the food prepared by so grinding cleaned wheat other than durum wheat and red durum wheat that, when tested by the method prescribed in paragraph (c) (2) of this section, not less than 90 percent passes through a No. 8 sieve and not less than 50 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. To compensate for any natural deficiency of enzymes, malted wheat, malted wheat flour, malted barley flour, or any combination of two or more of these, may be used; but the quantity of malted wheat flour so used is not more than 0.5 percent, and the quantity of malted barley flour so used is not more than 0.25 percent. The moisture content of whole wheat flour is not more than 15 percent. Unless such addition conceals damage or inferiority of the whole wheat flour or makes it appear better or of greater value than it is, the optional bleaching ingredient chlorine dioxide,[6] chlorine, or a mixture of nitrosyl chloride and chlorine, may be added in a quantity not more than sufficient for bleaching and artificial aging effects.

(b) When any optional bleaching ingredient is used, the label shall bear the word "Bleached." Wherever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the word "Bleached" shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter; except that where such name is a part of a trade-mark or brand, other written, printed, or graphic matter, which is also a part of such trade-mark or brand, may so intervene if the word "Bleached" is in such juxtaposition with such trade-mark or brand as to be conspicuously related to such name.

(c) For the purpose of this section: (1) Moisture is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 5th Edition, 1940, page 211, under "Vacuum Oven Method—Official."[7]

(2) The method referred to in paragraph (a) of this section is as follows: Use No. 8 and No. 20 sieves, having standard 8-inch full height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves," published March 1, 1940, in L. C. 584 of the U. S. Department of Commerce, National Bureau of Standards. Fit a No. 8 sieve into a No. 20 sieve. Attach bottom pan to the No. 20

[2] Nitrogen trichloride will be permitted in the standard as an optional ingredient until Aug. 1, 1949.
[3] 6th Ed., 1945, p. 238
[4] 6th Ed., 1945, p. 27.
[5] 6th Ed., 1945, p. 237.
[6] Nitrogen trichloride will be permitted in the standard as an optional ingredient until August 1, 1949.
[7] 6th Ed., 1945, p. 237.

sieve. Pour 100 gm. of the sample into the No. 8 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about ⅙ of a revolution each time in the same direction, after each 25 strokes. Continue shaking for 2 minutes. Weigh the material which fails to pass through the No. 8 sieve and the material which passes through the No. 20 sieve.

§ 15.90 *Bromated whole wheat flour.* (No change in wording is necessary since the bleaching ingredients are fixed by § 15.80 *Whole wheat flour.*)

§ 15.100 *Whole durum wheat flour.* (No change in wording is necessary since the bleaching ingredients are fixed by § 15.80 *Whole wheat flour.*)

Proposed effective dates. Chlorine dioxide is a gaseous substance whose practical use as a bleaching ingredient is made possible by the employment of certain machines for generating the chlorine dioxide gas, mixing it with air, and bringing measured amounts of the gaseous mixture in contact with the flour to be treated. The manufacture and installation of suitable machines to replace those used for bleaching with nitrogen trichloride will be time-consuming. Such change-over must be started immediately, in order to make possible the elimination of nitrogen trichloride as a bleaching agent for the various flours at the earliest practicable time. The necessity for beginning the change-over immediately creates an emergency condition which requires that the recognition of chlorine dioxide as an optional ingredient be made effective on the date of publication of the final order in the FEDERAL REGISTER.

The time required fully to effect the change-over necessitates that a somewhat longer period be allowed before deleting nitrogen trichloride from the standard as an optional ingredient. No unusual conditions exist with respect to the use of additional diluting agents in conjunction with benzoyl peroxide.

It is therefore proposed that the amendments to the definitions and standards of identity of flour (§15.00) enriched flour (§ 15.10) bromated flour (§ 15.20), enriched bromated flour (§ 15.30), self-rising flour (§15.50) enriched self-rising flour (§ 15.60) phosphated flour (§ 15.70) adding chlorine dioxide as an optional bleaching ingredient, become effective immediately upon publication of the final order in the FEDERAL REGISTER; that the amendment with respect to benzoyl peroxide become effective 90 days after the publication of the final order in the FEDERAL REGISTER; and that the amendment deleting nitrogen trichloride from the list of optional bleaching ingredients become effective August 1, 1949.

It is further proposed that the amendment adding chlorine dioxide as an optional bleaching ingredient in whole wheat flour (§ 15.80), bromated whole wheat flour (§ 15.90) and whole durum wheat flour (§15.100) shall become effective immediately upon publication of the final order in the FEDERAL REGISTER, and that the removal of nitrogen trichloride as an optional ingredient in such flours shall become effective August 1, 1949.

Any interested person whose appearance was filed at the hearing may, within 10 days from the date of publication of this tentative order in the FEDERAL REGISTER, file with the Hearing Clerk, Federal Security Agency, Room 5109, Federal Security Building, Fourth Street and Independence Avenue, SW., Washington, D. C., written exceptions thereto. Exceptions shall point out with particularity the alleged errors in this tentative order and shall contain specific references to the pages of the transcript of the testimony or to the exhibits on which such exceptions are based. Such exceptions may be accompanied by a memorandum or brief in support thereof. Exceptions and accompanying memoranda or briefs shall be submitted in quintuplicate.

Dated: October 27, 1948.

[SEAL] OSCAR R. EWING,
Administrator

[F. R. Doc. 48-9605; Filed, Nov. 1, 1948; 8:49 a. m.]

NOTICES

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 7825, 7826]

BEN K. WEATHERWAX AND FRED G. GODDARD

ORDER CONTINUING HEARING

In re applications of Ben K. Weatherwax, Aberdeen, Washington, Docket No. 7825, File No. BP-5098; Fred G. Goddard, Hoquiam, Washington, Docket No. 7826, File No. BP-5180; for construction permits.

The Commission having under consideration a petition filed October 11, 1948, by Ben K. Weatherwax, Aberdeen, Washington, requesting a continuance in the further hearing presently scheduled for November 1, 1948, at Hoquiam, Washington, upon the above-entitled applications for construction permits;

It is ordered, This 22d day of October 1948, that the petition be, and it is hereby, granted; and that the hearing on the above-entitled applications be, and it is hereby, continued to 10:00 a. m., Wednesday, November 24, 1948, at Hoquiam, Washington.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-9612; Filed, Nov. 1, 1948; 8:50 a. m.]

[Docket No. 8230]

CHARGES FOR COMMUNICATIONS SERVICE BETWEEN THE UNITED STATES AND OVERSEAS AND FOREIGN POINTS

ORDER CONTINUING HEARING

It appearing, that a further hearing with respect to multiple address press service furnished by certain of the respondents herein is now scheduled to commence on November 15, 1948; and

It further appearing, that the Commission has, on October 20, 1948, adopted an order providing for a further hearing, to commence on November 15, 1948, with respect to certain general rate matters at issue herein;

It is ordered, This 21st day of October 1948, that the further hearing in this proceeding with respect to multiple address press service, now scheduled to commence November 15, 1948, is continued upon the Commission's own motion until conclusion of the hearing with respect to the general rate matters at issue herein, to be held at the same place as heretofore designated.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-9609; Filed, Nov. 1, 1948; 8:50 a. m.]

[Docket No. 8374]

KXRO, INC.

ORDER CONTINUING HEARING

In re application of KXRO, Incorporated, (KXRO), Aberdeen, Washington, for construction permit. Docket No. 8374, File No. BP-5568.

The Commission having under consideration a petition filed October 21, 1948, by KXRO, Incorporated, Aberdeen, Washington, requesting a continuance in the further hearing presently scheduled for November 4, 1948, at Hoquiam, Washington, upon its above-entitled application for construction permit;

It is ordered, This 22d day of October 1948, that the petition be, and it is hereby, granted; and that the hearing on the above-entitled application be, and it is hereby, continued to 10:00 a. m., Monday, December 13, 1948, at Hoquiam, Washington.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-9610; Filed, Nov. 1, 1948; 8:50 a. m.]

[Docket No. 8920]

PUERTO RICO COMMUNICATIONS AUTHORITY

ORDER CONTINUING HEARING

In re application of Puerto Rico Communications Authority, San Juan, Puerto Rico, for construction permit. Docket No. 8920, File No. BPH-769.

Whereas, the above-entitled application is presently scheduled to be heard in Washington, D. C., on October 25, 1948; and

Whereas, the public interest, convenience and necessity would be served by a continuance of the said hearing;

It is ordered, This 22d day of October 1948, that the hearing on the above-entitled application be, and it is hereby, continued to 10:00 a. m., Monday, November 8, 1948, at Washington, D. C.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 48-9611; Filed, Nov. 1, 1948; 8:50 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 835]

UNLOADING OF MACHINERY AT GRAND PRAIRIE, TEX.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 27th day of October A. D. 1948.

It appearing, that 15 cars of machinery at Grand Prairie, Texas, are on hand on The Texas and Pacific Railway Company, for an unreasonable length of time and that this delay in unloading such cars impedes their use; in the opinion of the Commission an emergency exists requiring immediate action. It is ordered, that:

(a) *Machinery at Grand Prairie, Tex., be unloaded.* The Texas and Pacific Railway Company, its agents or employees, shall unload immediately CBQ 32643, C&O 2637 and 13 other box cars loaded with machinery now on hand at Grand Prairie, Texas, consigned order-notify Southwest Company.

(b) *Demurrage.* No common carrier by railroad subject to the Interstate Commerce Act shall charge or demand or collect or receive any demurrage or storage charges for the detention under load of any car specified in paragraph (a) of this order for the detention period commencing at 7:00 a. m., October 29, 1948, and continuing until the actual unloading of said car or cars is completed.

(c) *Provisions suspended.* The operation of any or all rules, regulations, or practices, insofar as they conflict with the provisions of this order, is hereby suspended.

(d) *Notice and expiration.* Said carrier shall notify the Director, Bureau of Service, Interstate Commerce Commission, Washington, D. C., when it has completed the unloading required by paragraph (a) hereof, and such notice shall specify when, where, and by whom such unloading was performed. Upon receipt of that notice this order shall expire.

It is further ordered, That this order shall become effective immediately; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission, at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402; 41 Stat. 476, sec. 4; 54 Stat. 901, 911; 49 U. S. C. 1 (10)-(17) 15 (2))

By the Commission, Division 3.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 48-9599; Filed, Nov. 1, 1948; 8:48 a. m.]

FREIGHT FORWARDERS—MOTOR COMMON CARRIERS, AGREEMENTS

NOTICE OF FILING OF AGREEMENTS

OCTOBER 28, 1948.

The Interstate Commerce Commission has assigned the administrative work in connection with the filing of agreements between freight forwarders and common carriers by motor vehicle, under section 409 (a) of the Interstate Commerce Act to its Bureau of Traffic. The filing of such agreements was authorized by report and order of September 24, 1948, in docket No. 29493, Freight Forwarders—Motor Common Carriers, Agreements, wherein the Commission prescribed terms and conditions, including those governing the determination and fixing of the compensation to be paid or observed, under which freight forwarders subject to Part IV of the act may utilize the services and instrumentalities of common carriers by motor vehicle subject to Part II of the act.

[SEAL] G. W. LAIRD,
Acting Secretary.

[F. R. Doc. 48-9602; Filed, Nov. 1, 1948; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-2422]

CZECHOSLOVAK GOVERNMENT

NOTICE OF APPLICATION TO STRIKE FROM LISTING AND REGISTRATION, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 27th day of October A. D. 1948.

In the matter of Czechoslovak Government 8% Secured External Sinking Fund Gold Bonds of the Czechoslovak State Loan of 1922 (first series) due April 1, 1951 and Series B due October 1, 1952 "Unstamped"

The New York Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1, (b) promulgated thereunder, has made application to strike from registration and listing the Czechoslovak Government 8% Secured External Sinking Fund Gold Bonds of the Czechoslovak State Loan of 1922 (first series) due April 1, 1951, and Series B due October 1, 1952, "Unstamped"

The application alleges:

(1) The Czechoslovak Government on September 30, 1946, extended an offer to resume service and to pay interest arrears on the outstanding dollar bonds of the Czechoslovak State Loan of 1922. This offer among other things provided for payment at the full rate of 8% per annum of interest coupons maturing from April 1, 1940, to and including April 1, 1946; for the payment of interest commencing October 1, 1946, at the reduced rate of 6% per anum; and for the extension of the maturity date of the bonds to October 1, 1960.

(2) Bondholders accepting the offer of the Czechoslovak Government were instructed to present their dollar bonds for stamping to indicate acceptance of the modifications in the terms of the bonds.

(3) The paying agents have reported to the exchange that the outstanding dollar bonds of these issues that have not been stamped to show acceptance of the offer of the Czechoslovak Government have been reduced through acceptance of the offer to $211,000 principal amount of the First Series Dollar Bonds and $198,600 principal amount of the Series B Dollar Bonds.

(4) The reason for the proposed striking of these securities from registration and listing is that the outstanding amounts therein have been so reduced as to make further dealings therein upon the exchange inadvisable.

(5) These securities were suspended from trading on the applicant exchange on September 10, 1948.

(6) The rules of the New York Stock Exchange with respect to the striking of a security from registration and listing have been complied with.

Upon receipt of a request, prior to November 16, 1948, from any interested person for a hearing in regard to terms to be imposed upon the delisting of this security, the Commission will determine whether to set the matter down for hearing. Such request should state briefly the nature of the interest of the person requesting the hearing and the position he proposes to take at the hearing with respect to imposition of terms or conditions. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Washington, D. C. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 48-9594; Filed, Nov. 1, 1948; 8:47 a. m.]

[File No. 1-2968]

BRAGER-EISENBERG, INC.

ORDER POSTPONING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 27th day of October A. D. 1948.

Brager-Eisenberg, Inc., pursuant to section 12 (d) of the Securities Exchange Act of 1934 and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its capital stock, $1.00 par value, from registration and listing on the Baltimore Stock Exchange;

The Commission on October 6, 1948 having ordered that a hearing be held in this matter on November 8, 1948, at Baltimore, Maryland; and

It being found necessary to postpone said hearing from 11:00 a. m. November 8, 1948 until 11:00 a. m. January 10, 1949;

It is ordered, That this hearing be postponed until 11:00 a. m. January 10, 1949, to be held before the same hearing officer previously designated, James G. Ewell, and at the same place previously designated, Room 709, United States Appraisers Stores Building, 103 South Gay Street, Baltimore, Maryland.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-9593; Filed, Nov. 1, 1948; 8:47 a. m.]

[File No. 55-94]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM

ORDER GRANTING APPLICATION FOR APPROVAL OF MAXIMUM INTERIM COMPENSATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 26th day of October A. D. 1948.

Oliver R. Waite of Brickley, Sears and Cole, 1 Federal Street, Boston, Massachusetts, having filed with this Commission an application and an amendment thereto pursuant to Rule U-63 promulgated under the Public Utility Holding Company Act of 1935 ("the act") for approval of $10,000 as the maximum amount for which application may be made to the District Court of the United States for the District of Massachusetts as compensation for his services rendered as counsel to Bartholomew A. Brickley, Trustee of International Hydro-Electric System, a registered holding company, for the period from May 19, 1947 to July 31, 1948 inclusive, under circumstances as follows:

On August 12, 1943, this Commission filed an application in the aforesaid Court, Civil Action 2430, to enforce compliance with an order of the Commission entered on July 21, 1942, under Section 11 (b) of the Act that International Hydro-Electric System liquidate and dissolve. On November 13, 1944, the Court appointed Bartholomew A. Brickley as Trustee of said System; and on July 29, 1947, the Court authorized said Trustee to employ the applicant as counsel to assist in connection with the preparation, filing, approval and consummation of a plan for the liquidation and dissolution of said System. Applicant states that he has been continuously so employed since May 19, 1947; that up to July 31, 1948 he devoted 859 hours to the work, plus a considerable amount of time in office conferences with said Trustee, estimated at an additional 100 hours. Applicant's detailed statement of recorded time indicates work in drafting plan and amendment thereof, numerous conferences with respect thereto, examination of law, preparation for and attendance upon hearings on the plan, and the preparation of numerous court papers, letters and other documents. The amount requested is the maximum amount to be paid to applicant for all legal services performed by him in this matter to July 31, 1948.

Such application as amended having been duly filed, and notice thereof having been duly published stating that any interested person might not later than October 20, 1948, request a hearing thereon; and the Commission not having received a request for a hearing with respect thereto within the period specified in said notice or otherwise and not having ordered a hearing thereon; and

It appearing to the Commission that $10,000 is reasonable as the maximum amount for which application may be made to the District Court as an allowance for the aforesaid services;

It is therefore ordered, That the application of Oliver R. Waite pursuant to Rule U-63 be and the same hereby is granted, effective forthwith.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 48-9592; Filed, Nov. 1, 1948; 8:47 a. m.]

[File No. 70-1955]

NEW ORLEANS PUBLIC SERVICE INC.

SUPPLEMENTAL ORDER RELEASING JURISDICTION AND GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 27th day of October A. D. 1948.

New Orleans Public Service Inc. ("New Orleans") a utility subsidiary of Electric Power & Light Corporation, a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, having filed an application and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935, particularly sections 6 (b) and 7 thereof and Rule U-50 thereunder, regarding the issue and sale at competitive bidding of $10,000,000 principal amount of its First Mortgage Bonds, --% Series, due 1978 ("bonds"), and

The Commission having by order dated October 14, 1948 granted said application, as amended, subject to the condition that the proposed issue and sale of bonds not be consummated until the results of competitive bidding pursuant to Rule U-50 had been made a matter of record in this proceeding, and a further order entered by the Commission in light of the record as so completed and subject to a further reservation of jurisdiction with respect to the payment of all fees and expenses in connection with the proposed transactions; and

New Orleans having filed a further amendment to its application setting forth the action taken to comply with the requirements of Rule U-50 and stating that pursuant to an invitation for competitive bids, four bids for said bonds by four groups of underwriters headed by the firms set forth below were received:

Underwriting group	Coupon rate	Price to company	Cost to company
	Percent		
Lehman Bros.	3¼	101.5651	3.1683
Halsey, Stuart & Co., Inc.	3¼	100.2749	3.2350
Kidder, Peabody & Co.	3¼	100.179	3.2400
Union Securities Corp. and Harriman Ripley & Co., Inc.	3¼	100.10	3.2410

Said amendment to the application containing a statement that New Orleans has accepted the bid of the group headed by Lehman Brothers, as set out above, and that the Bonds will be offered for sale to the Public at a price of 102.125% of the principal amount thereof resulting in an underwriter's spread of 0.55987% per unit; and

The Commission finding that the proposed payment of counsel fees in the amount of $9,000 to Reid & Priest, New York counsel for New Orleans, and $4,000 and $2,000, respectively, to Rosen, Kammer, Wolff, Hopkins & Burke, and L. J. Darrah, Esquire, local counsel for New Orleans, and $7500 to Beekman & Bogue, counsel for the successful bidder for said Bonds, whose fee is to be paid by the successful bidder, are not unreasonable; and

The Commission having examined said amendment and having considered the record herein and finding no reason for imposing terms and conditions with respect to said matters:

It is ordered, That jurisdiction heretofore reserved with respect to the matters to be determined as a result of competitive bidding for said Bonds under Rule U-50 be, and the same hereby is, released, and that the amendment filed on October 27, 1948 to the application be, and the same hereby is, granted forthwith, subject, however, to the terms and conditions prescribed in Rule U-24.

It is further ordered, That jurisdiction heretofore reserved with respect to fees and expenses of counsel in connection with the issue and sale of said bonds, including fees payable to counsel for the successful bidder, be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-9588; Filed, Nov. 1, 1948; 8:46 a. m.]

[File No. 70-1965]

KITTERY ELECTRIC LIGHT CO.

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 25th day of October 1948.

Notice is hereby given that an application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Kittery Electric Light Company ("Kittery") a subsidiary of New England Gas and Electric Association a registered holding company. Applicant has designated section 6 (b) of the act as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than October 28, 1948, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application proposed to be controverted, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after October 28, 1948, said application, as filed or as amended, may be granted as provided in Rule U-23 of the Rules and Regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

All interested persons are referred to said application which is on file in the office of this Commission for a statement of the transaction therein proposed, which is summarized as follows:

Kittery proposes to issue and sell to the Maine Savings Bank of Portland, Maine, $50,000 principal amount of unsecured 3½% serial notes to be dated September 1, 1948, and to mature September 1, 1973. Proceeds from the proposed issue of notes will be used to pay existing six month's notes in the principal amount of $10,500 maturing February 21, 1949, held by The First National Bank of Boston, and to provide cash for the construction, completion, extension and improvement of the company's facilities and for other lawful corporate purposes. The application states that the notes were placed through H. M. Payson & Co. of Portland, Maine, which company will receive a finder's fee of $500. Other expenses are estimated at $280.

Kittery is subject to the jurisdiction of the Public Utilities Commission of the State of Maine, which Commission approved the issue and sale of the said notes by order dated September 10, 1948.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-9591; Filed, Nov. 1, 1948; 8:46 a. m.]

[File No. 70-1979]

ALABAMA POWER CO.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 26th day of October 1948.

Notice is hereby given that an application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 (the "act") by Alabama Power Company ("Alabama") a public utility subsidiary of The Southern Company, a registered holding company and a wholly owned subsidiary of The Commonwealth & Southern Corporation, also a registered holding company. The applicant has designated section 6 (b) of the act and Rule U-50 promulgated thereunder as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than November 18, 1948 at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said application, which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after November 18, 1948, said application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transaction as provided in Rule U-20 (a) and Rule U-100 thereof.

All interested persons are referred to said application which is on file in the offices of this Commission for a statement of the transaction therein proposed, which is summarized as follows:

Alabama proposes to issue and sell, pursuant to the competitive bidding requirements of Rule U-50, $12,000,000 principal amount of its First Mortgage Bonds, --% Series, due 1978, to be issued under and secured by Alabama's present indenture dated as of January 1, 1942, as supplemented by indentures dated as of October 1, 1947, and to be dated as of December 1, 1948.

The application states that Alabama has made and contemplates making expenditures of approximately $57,000,000 during the years 1948, 1949 and 1950 for property additions. The proceeds from the sale of the new bonds and funds on hand and to be generated through operations will be used toward such construction program. The Company estimates that approximately $12,000,000 of its cash requirements for such program will have to be provided from the sale, before the end of 1950, of additional securities, of a type not yet determined.

The application indicates that the Alabama Public Service Commission, the State Commission of the State in which Alabama is organized and doing business, has expressly authorized the proposed issuance and sale of the bonds.

Alabama has requested that the Commission's order be issued as soon as possible and that it become effective forthwith.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 48-9593; Filed, Nov. 1, 1948; 8:46 a. m.]

[File No. 811-321]

AMALGAMATED INVESTMENT FUND

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 27th day of October A. D. 1948.

Notice is hereby given that Amalgamated Investment Fund, a registered, management, open-end, non-diversified investment company under the Investment Company Act of 1940, through its depositor, Amalgamated Investors, Inc., of 11-15 Union Square, New York, New York, has filed an application pursuant to section 8 (f) of the act for an order declaring that the Applicant as an issuer which is not making and does not presently propose to make a public offering of its securities and whose outstanding securities (other than short-term paper) are now beneficially owned by not more than one hundred persons, has under the provisions of section 3 (c) (1) ceased to be an investment company within the meaning of the Act.

It appears from the application that Amalgamated Investment Fund was organized in 1926 by its sponsor, Amalgamated Investors, Inc. of New York, New York; that the applicant is a registered, management, open-end, nondiversified investment company, having filed with the Commission a registration statement on Form N-8B-1 under the Investment Company Act of 1940 on August 15, 1941, that since such registration it has had outstanding only participation certificates having no voting power; that the applicant is not making and does not presently propose to make a public offering of its securities; that the number of persons owning such certificates from the time of registration under the act in 1941 to the present has continually declined from 123 persons to 43 persons; and, that each of the persons holding participation certificates of the applicant is the beneficial owner.

For a more detailed statement of matters of fact and law asserted, all interested persons are referred to said application which is on file in the offices of the Commission in Washington, D. C.

Notice is further given that an order granting the application upon such conditions as the Commission may deem necessary for the protection of investors may be issued by the Commission at any time on or after November 15, 1948, unless prior thereto a hearing upon the application is ordered by the Commission as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested persons may, not later than November 12, 1948, at 5:30 p. m., submit to the Commission in writing his views or any additional facts

bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., and should state briefly the nature of the interest of the persons submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-9589; Filed, Nov. 1, 1948; 8:46 a. m.]

[File No. 70-1902]

COMMONWEALTH & SOUTHERN CORP. (DEL.) ET AL.

NOTICE OF FILING AND HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 29th day of October 1948.

In the matter of the Commonwealth & Southern Corporation, (Delaware), Southern Indiana Gas and Electric Company, the Commonwealth & Southern Corporation, (New York) File No. 70-1902.

The Commission having on August 1, 1947, issued an order pursuant to section 11 (b) (1) of the Public Utility Holding Company Act of 1935 (the "act") directing, among other things, that the Commonwealth & Southern Corporation (of Delaware) a registered holding company, hereinafter referred to as "Commonwealth," divest itself of its interest in Southern Indiana Gas and Electric Company ("Southern Indiana") a direct public utility subsidiary of Commonwealth; and

The Commission having, by its order dated September 9, 1948 in these proceedings, granted Commonwealth an exemption from the competitive bidding requirements of Rule U-50 with respect to the proposed sale by Commonwealth of all of its holdings of the common stock of Southern Indiana and having deferred consideration and reserved jurisdiction with respect to all other aspects of the proposed sale;

Notice is hereby given that Commonwealth & Southern Corporation (of New York) a mutual service company subsidiary of Commonwealth, hereinafter referred to as "service company" and Southern Indiana, have filed amendments to the joint applications-declarations hereto filed in this matter pursuant to the act, regarding, among other things, the sale of common stock of Southern Indiana and the divestment of Commonwealth of its interest in such company. Applicants-declarants have designated sections 6 (a) 7, 9 (a) 10, 12 (c) 12 (d) and 12 (f) of the act and Rules U-42, U-43 and U-44 thereunder as applicable to the proposed transactions.

All interested persons are referred to said amended applications-declarations which are on file in the offices of this Commission for a statement of the transactions therein proposed, which are summarized as follows:

(1) Southern Indiana proposes to amend its Articles of Reorganization so as to increase the authorized number of its shares of no par common stock from 500,000 to 1,500,000 shares and thereupon to change the number of shares now outstanding, all of which are presently owned by Commonwealth, from 400,000 shares to 600,000 shares, without any change, however, in the amount of capital represented thereby.

(2) Commonwealth proposes to sell its holdings of the common stock of Southern Indiana to a group of underwriters represented by Smith, Barney & Co. for resale to the public at the best price (which shall be not less than the then book value) and on the most favorable terms obtainable. The price to Commonwealth and the proposed initial public offering price are to be filed by amendment.

(3) Southern Indiana also proposes, concurrently with the sale of its outstanding common stock by Commonwealth to issue and sell to the same underwriters (or to Commonwealth for resale to said underwriters at its cost and Commonwealth will resell to said underwriters) under the same contract and at the same price, the least number of additional shares of its no par common stock which will be sufficient to realize proceeds to Southern Indiana of approximately $1,500,000 but not more than $1,750,000.

(4) Southern Indiana further proposes, concurrently with the sale of its common stock, to sell to service company, at $100 per share (the approximate book value thereof) the 162 shares of the $100 par value capital stock of service company owned by Southern Indiana. Service company states that it may dispose of the aforesaid 162 shares of its capital stock, at $100 a share, to its remaining stockholders.

(5) In the event that Commonwealth divests itself of its interest in Southern Indiana, service company proposes, so long as it shall be a mutual service company and be authorized to do so, to render to Southern Indiana such services (other than services of a general managerial and supervisory character) as Southern Indiana may from time to time request at the cost thereof, determined in accordance with the usual procedures of the service company with respect thereto, plus 10% of such cost.

Commonwealth states that it will apply the proceeds from the sale of the common stock of Southern Indiana to the payment and retirement of the indebtedness incurred by it through the issuance of notes to banks, as authorized by this Commission's order of September 9, 1948. Southern Indiana states that it will apply the proceeds from the sale of its common stock to finance its current construction program.

Commonwealth requests that the Commission's order herein authorizing the proposed transactions contain the findings, recitals and provisions with respect thereto required by sections 371 (f) and 1808 (f) of the Internal Revenue Code.

Notice is hereby given that any interested person may, not later than November 10, 1948, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on any or all of the above matters, other than the proposed sale to underwriters (as to which a hearing, as hereinafter indicated, will be held), stating the reasons for such request, the nature of his interest and the issues, if any, of fact or law raised by said filings which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after November 10, 1948, said applications-declarations, as filed or as amended, except as to proposed sales to underwriters, may be granted or permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rule U-20 (a) and Rule U-100 thereof.

Notice is further given that, if and when a contract is entered into with underwriters for the proposed sale of Southern Indiana common stock, the record herein will be reopened and a hearing will be held on the issues remaining as to such proposed sale at the offices of this Commission after short telegraphic notice to those persons who, not later than November 10, 1948 at 5:30 p. m., e. s. t., shall file with the Secretary of the Commission a request in writing that they receive such notice. On the date for hearing the hearing room clerk in Room 101 will advise as to the room in which such hearing will be held.

It is ordered, That a copy of this notice shall be mailed by registered mail to the Federal Power Commission, the Public Service Commission of Indiana, to Commonwealth, Southern Indiana, the service company and all persons who have participated in the above-entitled proceedings; that notice shall be given to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases under the act; and that further notice shall be given to all persons by publication of this notice in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 48-9631; Filed, Nov. 1, 1948; 9:01 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12197]

CHRISTIAN KONZAK

In re: Estate of Christian Konzak, deceased. File No. D-28-12435; E. T. sec. 16661.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Marie Greschenz, Friedrich Konzak, Martin Konzak, Wilhelm Konzak, Christiane Raak, Friedrich Raak, Marianne Lattke, Anna Trunte, Herman Raak, and Luise Linsa, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the Estate of Christian Konzak, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Frank A. Konzak, as executor, acting under the judicial supervision of the County Court of Adams County, Nebraska;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 48-9614; Filed, Nov. 1, 1948; 8:51 a.m.]

[Vesting Order 12205]

OSCAR G. SONNECK

In re: Trust under the Will of Oscar G. Sonneck, deceased. File No. D-28-12444; E. T. sec. 16665.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Bertha Gleiss, Dr. Georg Kleybocker and Elizabeth Kleybocker, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to the Trust created under the will of Oscar G. Sonneck, deceased, is property payable or deliverable to, or claimed by the aforesaid nationals of a designated enemy country (Germany),

3. That such property is in the process of administration by Empire Trust Company, New York City 5, New York, as Trustee, acting under the judicial supervision of the Surrogate's Court of New York County, New York

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 15, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9615; Filed, Nov. 1, 1948; 8:51 a. m.]

[Vesting Order 12228]

LUDWIG KOENIG ET AL.

In re: Ludwig Koenig, plaintiff, vs. Karl Koenig, et al., defendants. File No. D-28-9473; E. T. sec. 12747.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Karl Koenig, Wilhelm Koenig, Barbara Sanger, and Else (Elsa) Messing, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof in and to the proceeds of the real estate sold pursuant to court order in a partition suit entitled: "Ludwig Koenig, plaintiff, vs. Karl Koenig, et al., defendants, No. A-2650" in the District Court, Third Division, Territory of Alaska, is property payable or deliverable to or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by Robert A. Baker, Referee, acting under the judicial supervision of the District Court, Third Division, Territory of Alaska;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 20, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 48-9616; Filed, Nov. 1, 1948; 8:51 a. m.]

[Vesting Order 12273]

CAROLINE SCHECH

In re: Safe Deposit Box owned by Caroline Schech. F-28-17688-F-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation:

1. It having been found and determined by Vesting Order 11063 dated April 9, 1948 that Caroline Schech is a national of a designated enemy country (Germany)

2. It is hereby found that the property described as follows:

a. All rights and interests created in Caroline Schech under and by virtue of a safe deposit box lease agreement by and between Caroline Schech and The Chase Safe Deposit Company, 18 Pine Street, New York 5, New York, relating to safe deposit box number 1021 located in the vaults of said safe deposit company, including particularly but not limited to the right of access to said safe deposit box, and

b. All property of any nature whatsoever located in the safe deposit box referred to in subparagraph 2 (a) hereof, and all rights and interests evidenced or represented thereby, to the extent not

heretofore vested by said Vesting Order 11068,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 27, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 48-9617; Filed, Nov. 1, 1948; 8:52 a. m.]

[Return Order 162]

LOUISE SCHNEIDER

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

It is ordered, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant and Claim Number, Notice of Intention To Return Published, and Property

Louise Schneider, rue Albert Ier No. 48, Sarreguemines (Moselle), France; 5147; July 7, 1948 (13 F. R. 3772); $2,643.66 in the Treasury of the United States. All right, title, interest and claim of any kind or character whatsoever of Louise Reinhardt (Jenft) Schneider in and to the estate of Louise Reinhardt, deceased.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on October 27, 1948.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 48-9618; Filed, Nov. 1, 1948; 8:52 a. m.]